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Notre Dame Law School

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UNIVERSITY OF NOTRE DAME NATURAL LAW INSTITUTE PROCEEDINGS

VOLUME V

Edited by
EDWARD F. BARRETT
Professor of Law

With a Foreword by
REVEREND JOHN J. CAVANAUGH, C.S.C.
President of the University of Notre Dame



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1947

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1948

MR. ALVIN A. GOULD, CINCINNATI, OHIO

1949

MR. ALVIN A. GOULD, CINCINNATI, OHIO

1950

MR. ALVIN A. GOULD, CINCINNATI, OHIO

1951

MR. ALVIN A. GOULD, CINCINNATI, OHIO

To
Reverend John J. Cavanaugh, C.S.C.,
President of the University of Notre Dame,
1946-1952,
and
Dr. Clarence E. Manion,
Dean of the College of Law,
1941-1952,

under whose leadership the Natural Law Institute was established in the College of Law, University of Notre Dame, in 1947, and to whose inspiration and encouragement it owes so much of its success, this volume is gratefully and respectfully dedicated.

FOREWORD

The late Mr. Justice Cardozo called attention to "the impulse of jurisprudence in these days to fling herself into the arms of philosophy for shelter and consolation." Not one, but many competing philosophies strive today to possess the soul of jurisprudence. Among these is the historic "Natural Law" concept which the founders of the American Republic used as a basis for the Declaration of Independence and clearly implied in the Ninth Amendment to the Constitution itself. This same concept is the philosophy respected by the law curriculum of the University of Notre Dame for more than eighty years.

An American law school in our times, while discharging its primary duty to its students, has also a responsibility to the great profession for which it prepares them and to the public they are to serve. Notre Dame's College of Law accepted such a responsibility in establishing the Natural Law Institute five years ago. The Institute sought to extend the study of Natural Law beyond the limits of the classroom, and to encourage re-examination by laymen as well as by lawyers, of the claims of the Natural Law as a philosophy of law offering not merely temporary "shelter and consolation," but a firm foundation for the future.

The results have been gratifying. The increasing number of books and articles on Natural Law in the past few years and the frequency with which our highest courts now refer to it, indicate a "second spring" for the Natural Law in American jurisprudence. Even those unwilling to accept the Natural Law now frankly acknowledge its

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renewed vigor in contemporary legal thought. To this "renaissance" the Institute has made an inspiring contribution. As Mr. Justice Frankfurter says, "the Natural Law Institute of Notre Dame University is now an established institution in our legal world."

The volumes of the Proceedings of the Institute, of which the present is the fifth, taken together, constitute a comprehensive introduction to the many aspects of Natural Law philosophy. This was made possible by grouping the various lectures or papers of each succeeding convocation around a central theme. Thus, in 1947, the theme was the general philosophical background of the Natural Law; in 1948, its history and development since Greek and Roman days were examined; in 1949, the relation between the Natural Law and four major divisions of Positive Law was the subject of inquiry; in 1950, the lecturers discussed the Natural Law basis of what we are accustomed to call our "fundamental rights."

The papers read at the 1951 convocation and included in the present volume constitute a fitting climax to the Institute's program. It had been said that the Natural Law concept carried with it certain "theological implications" peculiar to the Christian, or even more narrowly, to the Catholic tradition of the western world. Christian writers, however, had long asserted that Natural Law, by its very definition, was the endowment of all men, as children of God, regardless of time and place, color, race or creed. St. Paul had written nearly two thousand years ago:

For when the Gentiles who by nature have not the Law, fulfill the requirements of the Law, these, though they have not the Law are a law unto

FOREWORD

themselves, showing as they do, the demands of the Law to be written on their hearts; and an approving conscience beareth them out, amid the debate of thoughts that accuse or defend.

(Rom., ii, 14-15)

Would the thinking and the writing of the peoples of the non-Christian world, particularly the non-western world, corroborate St. Paul's words? This question was before the Institute's convocation at Notre Dame in December, 1951. In an unprecedented undertaking, five scholars of highest rank and reputation, representing the thought of the non-Christian world, Jewish, Moslem, Buddhist, Hindu and Confucian, came together for four days of concentrated discussion in an American Catholic University, under the chairmanship of an American Catholic Archbishop. From their voices we were privileged to hear what the traditions of over a billion of the earth's inhabitants had to say about the Natural Law and the claim for its universality as advanced by the thinkers and writers of the Christian world. No more magnificent exemplification of true "academic freedom" grounded upon sovereign respect for the conscience of man as the child of God could be imagined. It was not to be expected that complete harmony in terminology would occur between the thought of Christian and non-Christian, or that the results of Oriental intuition would sound familiar to western ears accustomed to the ring of the Aristotelian-Scholastic syllogism. The careful reader of the papers in the present volume will, nevertheless, discern the deeper and more abiding harmony in the evidence that all men everywhere have constantly reached

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out towards a norm, a standard or criterion of conduct, an *absolute* not the work of human hands and therefore carrying with it a regulative force superior to anything men themselves could devise. What matters it if their "reach" may have "exceeded their grasp"? The significant and inescapable fact is the very tendency of men to "reach" at all. In what they thus seek, East and West are one.

The first phase of the Institute's program is now complete. Much remains to be done. Wide boundaries have been staked out and broad fields ploughed. These must be cultivated. The Natural Law must become a living force in the thinking and practice of American lawyers and judges. To this end acute and untiring scholarship is indeed demanded. It must not be a scholarship remote and cloistered, but one ever mindful of the practical and immediate problems of the lawyer and of the courts today.

Reverend John J. Cavanaugh, C.S.C.,
President, University of Notre Dame.

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EDITOR'S PREFACE

This law of nature, being coeval with mankind and dictated by God Himself, is of course superior in obligation to any other. It is binding over all the globe in all countries, and at all times; no human laws are of any validity, if contrary to this; and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original.

—Sir William Blackstone.

Man has rights which human law does not create and therefore may not destroy. For thousands of years expressions of this conviction run through recorded history. Ancient philosophers in China, India, Israel, Greece and Rome recognized inherent values in Man and reasoned that rights which are the means of protecting and developing such values could not be the mere products of man-made laws alone. The ultimate source of such rights must be that superior law of nature to which valid human law must in all respects conform.

Christianity but clarified and confirmed the ancient concepts. God, as a Supremely Intelligent Creator, made all things in accordance with a Divine Plan of Creation — the “Eternal Law”— in which each created thing has a nature adapted to its end or purpose. The end and nature of Man are alike unique. He is endowed by his Creator with an immortal soul, a free will and an intellect. Even in the absence of direct Divine Revelation, Man can discern through the reason which is his natural endowment, at least the primary commands of the Eternal Law. This “participation” by Man through reason in the

Eternal Law is thus properly called the Natural Law. In disclosing the elemental duties of Man, the creature, to God, the Creator, the Natural Law necessarily establishes the rights without which these duties cannot be discharged. Rights with such an origin no human authority on earth may impair or destroy.

If, as Cardinal Newman once said, "the word 'God' constitutes a Theology in itself," the attribution of the inviolable character of basic human rights to the fact of Man's creation by God constitutes a Jurisprudence in itself. With precisely that Jurisprudence American Law began. The Declaration of Independence appealed to the "law of nature" as the reflection of "the law of nature's God." It affirmed as "self-evident" the tremendous truths that Man is the creature of a Divine Creator and is "endowed" by the Creator in the very act of creation with "certain rights." These rights are therefore "unalienable." It is to "secure" these rights that men institute government, conferring upon it the *powers* necessary for that purpose. The *powers* of government are "just" when they derive from the "consent of the governed" and when exercised not to destroy or impair, but to protect unalienable human rights by specifying in detail the modes of their enjoyment under the developing conditions of social life. Thus the American Constitution itself aims not at "creating" but at "securing" the "blessings of liberty." The "Thou shalt nots" of the Bill of Rights purport to stay the restless hand of government from unreasonable interference with rights already regarded as existing in virtue of natural law.

This "Natural Law" philosophy remained for generations the accepted philosophy of law of the American

Bench and Bar. In later days, however, it was laughed out of most American Law Schools and faded from the thinking of the lawyers and judges they had trained. New "isms" took its place. Secularism divorced Government from God. Pragmatism scorned "ethical absolutes" as criteria of human law. Positivism narrowed the "province of Jurisprudence" to the study of man-made law alone. The Relativist said "all concepts are relative." For Materialism there was "no significant difference between a man and a baboon or a grain of sand." In our own times, Nazis and Communists have erected legal systems with such "principles" as premises. They showed a shocked world only yesterday the inhuman but completely logical conclusions.

We prosecuted the Nazi leaders at Nuremberg. The defendants pleaded that no Positive Law at the time of the commission of the acts charged in the indictment had made these acts "crimes" indictable before the victors' court. The civilized world demurred to the plea. The demurrer could not be sustained without resort once more after decades of derision, to Natural Law doctrines which alone can show why there are wrongs against humanity which need no Positive Law to make them "crimes" and why there are rights of human beings which do not cease to be such even though all the man-made law on earth is, as to them, so strangely silent.

To the restoration of Natural Law philosophy the Natural Law Institute of Notre Dame's College of Law is dedicated. Through its annual convocations and through its special Natural Law Library, both so generously sponsored by Mr. Alvin A. Gould, the Institute's success has been noteworthy during the five short years

of its existence. The 1951 convocation, held in the College of Law, December 11-15, marks another significant step forward. Preceding the formal sessions at which the papers included in the present volume were read, a three-day series of informal round-table discussions of many phases of Natural Law doctrines was conducted. Members of the College of Law Faculty, including Professors John J. Broderick, Jr., Robert E. Sullivan, Thomas F. Broden and Roger P. Peters, acted as leaders. Participants included ten of the distinguished scholars who had appeared at previous convocations of the Institute. They were Hon. Richard O'Sullivan, K.C., Bencher of the Middle Temple, London; Dr. Edward S. Corwin of Princeton University; Reverend John C. Ford, S.J., Professor of Moral Theology, Weston College; Dr. Clarence E. Manion, Dean of the College of Law, Notre Dame; Dr. Gordon H. Gerould, Princeton University; Dr. Heinrich A. Rommen, College of St. Thomas; Hon. Joseph C. Hutcheson, Jr., Chief Judge, United States Court of Appeals, Fifth Circuit; Mr. Felix Morley, formerly President of Haverford College; Mr. George E. Sokolsky, author and journalist; Dr. Maurice Le Bel, Professor of Greek, Laval University, and the following members of the 1951 panel: Rabbi Solomon Freehof, Rodef Shalom Temple, Pittsburgh; Dr. Khalifa Abdul Hakim of the Institute of Islamic Culture, Lahore, Pakistan; Dr. M. S. Sundaram, Cultural Attaché, Embassy of India, Washington; and Dr. Hu Shih, formerly Chinese Ambassador to the United States.

At the conclusion of the informal round-table discussions, the papers presented in this volume were read. They represent an undertaking perhaps without precedent in

the history of Natural Law scholarship. Under the distinguished Presidency of the Most Reverend J. Francis A. McIntyre, Archbishop of Los Angeles, whose introductory address is printed here, five scholars of international reputation — all non-Christians — for two days explored the place of Natural Law in their respective philosophical and religious traditions. Their papers are presented here exactly as they were read at the Convocation. Exponents of Natural Law philosophy have maintained that the law of nature is written on the hearts of all men as a direct endowment from their Creator and that Natural Law therefore, as correctly understood, is not a peculiarly Catholic or Christian philosophical or religious tenet or doctrine, but the possession of all men for all time and everywhere, whether Jew or Gentile, black or white, yellow, red or brown. The very grandeur of the concept thrills the hearts of all those who in the day of the Hydrogen Bomb desperately seek a lasting foundation for that "One World" to which the course of events is driving us, and who therefore ask for more than merely pragmatic organizational devices and schemes. In the 1951 Convocation the Natural Law Institute, extending complete academic freedom to its lecturers, subjected the grandeur of the concept of the universality of the natural law, to the candid criticism of scholarship. In the informal summary given by Mr. George E. Sokolsky and in the more extended paper by Reverend Theodore M. Hesburgh, C.S.C., Executive Vice-President of Notre Dame, the reader has before him two scholarly estimates of the extent to which the grandeur of the concept was re-affirmed. Whatever the reader's opinion, it may be said that in the five major papers here included

a scholarly point of departure has been established for future study in this field.

To all who helped in so many ways in the preparation of the 1951 program and in the arrangement of the countless details involved, the Editor wishes to express the gratitude of the University, the Faculty and the student body. The debt of the Institute continues to Reverend John J. Cavanaugh, C.S.C., President, to Dr. Clarence E. Manion, Dean of the College of Law, to Mr. Alvin A. Gould, again the Institute's sponsor, to Mr. R. Emmett Fitzgerald, Student Chairman, and to Mrs. George Howard, the Institute's efficient secretary.

Edward F. Barrett,
Professor of Law,
University of Notre Dame.

INTRODUCTORY ADDRESS

*Most Reverend J. Francis A. McIntyre,
Archbishop of Los Angeles*

(Address delivered at the opening session of the
Natural Law Institute, December 14, 1951).

To one who reached maturity at the turn of the century, a purview of the intervening fifty years presents many and somewhat surprising changes in the thinking, conduct, and judgment as well as in the standards of men. These changes may not have had their origin or their cause in this span, but during this period they reached a degree of fruition.

It may be asked, — are not men today of the same human nature as those of ages past? Human nature is always the same, but still we observe changes in thought and conduct and judgment which have come about gradually, almost imperceptibly. The realization of this change begets amazement at first glance. Students of contemporary trends in social, political and economic life have registered and charted these developments, but in many instances these observers have not been as sensitive in analysis as were the experts of other days. The subject of history in the educational curriculum today has not the place of honor and distinction it formerly occupied. History as a subject has lost its objectivity. It has succumbed to propaganda. The average student in secular

colleges has not acquired by experience or study or contact the scope of learning of his elders, nor is he guided by the same bases of comparison. Hence the present day student, denied the advantage of a scale of comparative values, offers a lesser resistance to error.

Yes, man is the same human creature. He possesses the same faculties of mind and body, but he employs these powers, particularly those of the mind, in a pursuit of the distorted views of a perverted pragmatism. In the study of philosophy the student of other years learned the laws of thought and of logic. In the study of history he followed the established standards of accurate interpretation of related facts. As he delved into language he found laws of comparison, if not of similarity, in the basic structures governing lingual expression.

In all pursuits there was law, there was a rule, a guide to be regarded and observed. There was at least a custom derived from and respected in long usage.

In our day the expressed aim and purpose of many is to depart from everything that is fixed or stable. When I use the term "fixed," I apply to it the primary meaning of the term — the sense of firm, permanent, definite, fastened.

The twentieth century has produced in the intellectual circles of the world a departure from fixed principles, from permanent standards, from commonly accepted practices. These former foundations are now classified as archaic by the fluctuating standards of academic freedom, a freedom wherein nothing is fixed, nothing at least in thought or in law.

Those who hoped for a refinement of application in the fundamental principles of Constitutional and Crim-

inal Law, have witnessed rather a departure from all principle — a flight from that which is fixed — to that which is constantly in flux, to the ever-changing “NOW.” That “NOW,” which is ever being consumed by the incoming future and immediately discarded as the future becomes the present, leaves little, if any, impression of the past. And the residue that inevitably remains is paid the dubious compliment of being speedily ignored.

The disciples of the “NOW” have no norm of measurement. They abjure the fixed, the basic, the absolute. Natural Law, revealed law, the law of practice, have been rejected. Has the Natural Law been abandoned because its acceptance presupposes a Lawmaker and the imperious necessity of belief in a Supreme Being?

Our jurists in denying the absolutes, in reality deny the very principles and practices upon which our courts exist and operate. If there is nothing fixed, then there is no need of a court — certainly not a court of law. A court of arbitration is not a court of law. If law is constantly in flux, there is no need of a judge. A judgment presupposes a fact, a happening, a condition, a principle which is to be judged in relation to something that has stability. If that “something” has no stability, wherein shall be the judgment?

If we contrast the beginning of the century with its mid-mark, we may come to some possible explanation at least of the evident divergence in thought and conduct that characterizes our confused days. Surely it cannot be denied that law, rule, practice, principle, are terms with meaning — terms which throughout the centuries have represented the basic foundations of life and determined the relations of men in life.

Our present day chaos, the unprecedented condition of our current negotiations between men and nations, our national disintegration, the abandonment of conventional conduct, the departure from the wholesome in dress, the breakdown of morals in the family, the exploitation of immorality in the press, in the cinema and in art — these are all striking evidences that departure from the “fixed” produces a crumbling of the foundations. In past ages and in other places such departure has resulted in the decay of civilization. In our age can it be otherwise?

Adherence to the “fixed” is alone the medium of order. In the maintenance of that order is happiness. Discord creates friction, and friction begets disintegration with ultimate destruction. Because of the forgetfulness of fundamentals and the ignoring of law and of precedent, the Korean negotiations have become a ridiculous farce.

Flight from the “fixed” leads to the conclusion that law is nothing more or less than the mandate of a sovereign possessing the power to enforce his dictates. The recent hemispheric wars and the present Korean war exemplify and manifest the evil of such a philosophy. Its fruits are seen in shameful atrocity killings and in the fashioning of weapons so terrible to contemplate that either side fears to loose the awful thunder. Statesmanship, leadership, character, accomplishment, integrity, honesty, these are concepts that wither and die in the belief that law is force.

Departure from the Natural Law is a characteristic of totalitarian philosophy. Departure from and ridicule of the Natural Law are intrinsic to all material conceptions of life. Here in America, where there is not appalling ignorance of the Natural Law, there is often its startling

misrepresentation. Surprised indeed was the speaker a few years ago to receive from jurists and lawyers of prominence, written expressions admitting a lack of knowledge of the Natural Law. Evidently, the noble and historic concept of the Natural Law was not taught in law school or had not received merited consideration in the formative period.

When we define Natural Law as a rule of action, mandatory in form, as reason itself affirms, established and promulgated by the Author of nature and imposed upon all men through their very nature, then we realize that the comprehension of such a definition and its application to the problems of the day are of tremendous importance for the world in which we live. Natural Law is a law inherent in man and in nature — the gift of the Creator. Man today is loathe to acknowledge his Maker. Hence the misrepresentation of the Natural Law, the ignorance of the Natural Law, the denial of the Natural Law which creates a vacuum into which seeps the doctrine of atheism, the spread of a morality rooted in force, and the supremacy of the omniscient State.

If we fly from fixed and fundamental principles, we may expect neither constructive thought nor constructive living nor the preservation even of the norms upon which our security rests. Atheism, destruction, the denial of human rights, are attributes of Communism. Our knowledge of the operation of the Soviet government spells nothing less than the perversion of what constitutes civilization. The contrast offered to this nihilism by the groups assembled here today is extremely interesting and stimulating. As I view the program of these sessions I venture to foresee in the presentation of the doctrines and

beliefs of the ancient civilizations here represented a continuity, an adherence and a devotion to a code of life that is fixed and permanent and stable. I am confident that these discussions will have many lessons for the world of contemporary thought.

THE NATURAL LAW IN THE JEWISH TRADITION

Rabbi Solomon Freehof

(Rabbi, Rodef Shalom Temple, Pittsburgh, Pa.; B. A., University of Cincinnati, 1916; D.D., Hebrew Union College, Cincinnati, 1916; D. H. L., Jewish Institute of Religion, 1945; Chaplain, 1st Lieut., A.E.F., 1917; member, Division of Religious Activities, National Jewish Welfare Board; Past President, Central Conference of American Rabbis; author of *Stormers of Heaven; The Book of Psalms—a Commentary; Modern Jewish Preaching; In the House of the Lord; Reform Jewish Practice*).

THE NATURAL LAW IN THE JEWISH TRADITION

THE science of Archeology is rather new. Of course, even in ancient times, men ransacked the tombs and dug around in the earth. But all that was mere treasure hunting. It is only in the last century that the inscriptions discovered and the pottery dug up by archeologists have been organized into a coherent time system and become a part of the scientifically recorded history of man. This rather new science has considerable relevance to our theme: The Divine and Natural Law in Jewish Experience.

Since popular interest in Scripture has, through the centuries, been deeper and more widespread than in any other literature of antiquity, one would expect that Biblical archeology, resulting from excavations in the Bible lands, would be the first archeology to be developed. Yet, curiously enough, the reverse is true. There has been for generations a well-developed Egyptian, Greek and Babylonian archeology, but almost no Palestinian archeology. The reason for this was simple enough. Egypt had its mighty pyramids and other tombs, Babylonia its many ruins; all over the Near East there were the vain-glorious inscriptions written into mountain sides by proud kings who thought their names should be perpetuated in granite forever. In Palestine there was none of that material for archeologists. We have not a single royal inscription from any of the Bible kings. The only ancient inscription we have was from some unknown engineer

who dug the water tunnel from the Pool of Siloam. All kings are vainglorious, yet no boastful king in ancient Israel would ever have presumed to leave an inscription dedicated to his own glory. The Prophets would have put such a foolish king quickly in his place and the people would have rebelled against his pretensions. That helps explain one of the curiosities of Biblical law. The Bible is full of laws. There are hundreds of them on almost any subject. Yet one can hardly recall a single law in Scripture which emanated from a king or from the Royal Council. If there were such, as there must have been, they were deemed to be so ephemeral that they were not preserved in the legal portions of Scripture. I doubt whether the legal history of any civilization can parallel this strange fact. In the entire Biblical legal literature not a single law emanating from kings or other secular authorities was recorded or preserved as permanently valid.

Ancient Palestine was not an anarchy. The people lived under organized authority, obedient to a system of laws. If, then, the kings, with all the armies under their control, did not have the authority to impose themselves on the legal system except for arbitrary and ephemeral acts of tyranny, then there must, of course, have been another and more eminent source of authority, more powerful than kings and more enduring than their councils. One need not ask what that authority was. So well known is the spirit of ancient Scripture that such a question becomes virtually a rhetorical one. There was no doubt as to what their authority was and what was the source of their law. "The Lord is our Judge; the Lord is our Legislator; the Lord is our King." (Isaiah

33:22) This was the authority from the very beginning. Every basic legal principle had the Name of God consciously attached to it. As among other peoples, laws would begin with the words: "I, the King," in Scripture it was always, "I, the Lord." "Ye shall not steal, ye shall not falsify, I am the Lord." "Ye shall not pervert justice; I am the Lord." (Leviticus 19) So through scores of enactments, the Giver of the Law proclaimed His Name that it might be known by Whose ordaining the law exerts its authority.

The later rabbinic comments made by men who were close to Bible times, made clear the spirit of these injunctions. The people of Israel were not the servants of their kings, but the servants of God alone. When in Leviticus (25:42) it is said, "For they are My servants whom I brought out from the land of Egypt," an ancient source amplifies and has God say, "My documents of possession have prior claim to any one's else." Or when we read in the same chapter, verse 55, "For to Me are the children of Israel servants," the Talmud (b. Kiddushin 25b) says, "To *Me* are they servants but they are not servants to other servants." Because the law had so august an authority, it feared no kings. The Prophets, speaking in the Name of the Divine Law, could denounce even David for his sins. And, further, because its source was the Omnipresent, Universal Father, it could rise above all ancient prejudice of race or nation and could proclaim in the Name of the Universal Father: "Equal justice shall there be, for the stranger as for the citizen, for I am the Lord." (Leviticus 24:22)

The Jewish legal system, therefore, began with the majesty of Divine mandate. As such it can only be de-

scribed as Divine Law. But towards the close of the Biblical period, it underwent a development which justifies its description as both natural and divine.

The Biblical laws, revered as God-given, were soon seen as insufficient to cover adequately the expanding needs of changing times. The Bible says, "Judges and officers shall ye appoint in all your cities." But that is surely just a general principle. How many judges, in cities of what size, what courts of appeal, what of a supreme court? The Divine word seems to be silent. If the Bible were looked upon as merely a human enactment, it could be superseded or freely amplified. But precisely because it was Divine, it could not be superseded and who could dare add words and laws to it? Therefore, a theory of jurisprudence arose which is more akin to the implied theory under which a basic but simple document like the Constitution of the United States was amplified into the vast present-day body of constitutional law: namely, to search for what was the intention of the Law-Giver as can be derived from the statements already made in Constitution or in Scripture.

With regard to the intention of the Divine Law-Giver, an interesting doctrine arose, that God gave to Moses on Mount Sinai not one law but two, the written law which we have before us, and an unwritten or an oral law, which He taught him. The unwritten law was handed down from Moses to Joshua, Joshua to the elders, through the ages. What its enactments are can be rediscovered through close study of the written law. The emphasis of a word, the use of an adjective, the choice of a phrase, all were in the original intention, so that one may rediscover the oral law, the unwritten law, through

a close study of the written word. The Talmud says, "Whatever a competent scholar will yet derive from the Law, that was already given to Moses on Mount Sinai" (j. Megilla IV, 74d). Thus only through human study and human reasoning was the *full* revelation on Mount Sinai rediscovered by man, and each generation stood at that mountain and received through its intelligence the eternally expanding Word of the Divine Law-Giver.

Thus by natural, human powers of experience and reason, tested by reverent study of Holy Writ, was a great legal system developed. It was natural, human law, the law inherent in the nature of man's mind and conscience, used as an instrument to discover the implicit will of God which is eternally present in unceasing revelation. The law thus amplified recorded itself in Mishnah and Talmud, in the later Codes, and in the books of thousands of scholars. It governed Jewish life all through the ages down to modern times. Never was the Jewish world community, in Palestine or in all the centuries of the Dispersion, governed by mere fiat of legislature or ruler, but always and almost exclusively, except for intrusive enactments from other systems, governed by a system of law which was the human discovery of God's Will. Students of the law may speak of "natural law" as the substratum of royal or parliamentary law, but never before, I believe, or since, in human history was an entire people in its religious and secular and business life governed so completely by a system of Divine and natural law. If one would wish to study natural law in its fullest effectiveness, here then is a classic example. How, then, did this Divine-Natural Law work out in this strange historic experience?

By the beginning of the present era, the Jews were scattered in many small communities all over the Roman Empire and also in the eastern lands. The destruction of the Jewish state in Palestine intensified this process of social fragmentation. Thus in tiny groups all over the map, they lived through the days of the Roman Empire, through the Middle Ages, down to the modern age.

These innumerable communities in every land were, of course, affected by laws not their own. The laws of city or principality or church or the Koran had provisions which dealt with them. But all these laws touched only the outer perimeter of their lives. Their chief governance was by their own law, interpreted by their own scholars and enforced by their own social will. The outer government would impose a tax upon the small community. The tax would be announced to the heads of the community. It would be they who would organize the payment of the tax according to the ability of each member to pay, and following well-established law. Medieval canon or civil law rarely touched the Jewish individual. In actual practice it dealt with the Jewish community. It was the Jewish community that touched the life of the individual Jew. Thus it came about that the ancient law, written and oral, the Divine Law amplified by natural intelligence, continued in force all through the Middle Ages. This law covered all of life, from the liturgy of the synagogue, the permitted and forbidden foods, the organization of the community, courtroom procedure, also loans, partnerships, contracts, all of the civil law. Divine-Natural Law was the governing law in the self-governing Jewish communities all over the world from classic antiquity to the dawn of the Modern Era.

These communities were orderly, coherent and effective social units. Yet they functioned under immense difficulties. Expulsion from the city or from the province, confiscation of property, attacks by angry mobs, ever-recurring poverty, the unpredictability of the whims of the secular sovereign; — all these were the circumstances surrounding these communities. Yet they functioned and continued through the centuries. All this was achieved without armies, without police power, almost without physical force at all.

Furthermore, the thousands of communities, most of them small, scattered all over Europe and Asia and North Africa, were governed almost in exactly the same way, yet without any functioning central authority. This achievement may seem miraculous, but it was really quite natural. The law was of one texture from the prescribed prayer after the family meal to the law of contracts and loans. It was all equally the Will of God. Thus the communities were governed from within by the inherited Law and the individual was governed from within by his own religio-legal conscience.

This was not Rousseau's Social Contract; it was the Sinai Covenant which was a living awareness in daily life. Social responsibility sprang from religious devotion. Hence even the bitterest disputes could finally be settled. The most stubborn member of the community could come to light. And almost no person needed the threat of prison or the lash, to be law-abiding; for the law was not a mere human contract or the product of the wilfulness of a tyrant or the confusion of some town council. Or ways would have been found to evade it; it was the Will of God as understood by revered scholars. Thus it was

generally obeyed in pride and in love.

This unusual type of self-governance seems far indeed from modern life and modern times. Yet it is not so far as to be irrelevant. The sources of true social order are always the same in a sprawling modern metropolis as in a tiny medieval ghetto. Police power is, of course, essential. Yet never quite sufficient. If a large percentage of the citizens decided to be violent, as has happened repeatedly, the police power is helpless. The true source of order still comes from within. It is conscience which makes citizens of us all.

Laws must be tested by this yardstick. Does the law violate the conscience of the community or earn its approval? If it violates it, no police power will ever be sufficient. As long as the citizens believe that law is wilful, foolish, a decree forced upon them, then they will hate the law and resist it. But when they feel that it comports with conscience, then police power becomes almost unnecessary because the law is enforced from within. The scattered Jewish communities maintained law and order because the law was accepted as coming to them from "nature and nature's God."

There have been many popular books in science, on medicine and on art; and every modern novel nowadays is in itself a popular textbook on clinical psychology. But there are very few popular books on the subject of law. This is inevitably so, for the law with its fine distinctions and precise definitions involves a degree of intellectual alertness which takes it beyond the mental reach of the average and hence, to the average man, is dull.

Yet, among the curious characteristics of the old Jewish communities, was precisely this, that the law did indeed

become a popular study. It was the theme of the child's first instruction, the subject of the workmen's conversation at the workbench and of travellers on the road. It was the content of a lifelong adult study which engaged the spare time of almost the entire community. For the duty to study the law was an ancient one. Even in Bible times the Psalmist says: "Oh how I love Thy law, O God; it is my meditation all the day." (Psalm 119:27)

And in the earliest post-Biblical times, the Ethics of the Fathers, which is part of the great law code, the Mishnah, says: "If thou hast studied much of the law, do not boast of the fact, for it is for that purpose, to study the law, that God has created you." (11, 9) Thus it was that a democratic adult education developed in Palestine. It was actually a legal education; and during all the Middle Ages every tiny community studied the law, each man according to his capacity. Everybody was learned in basic law, the Five Books of Moses. He studied it through each year. A slightly smaller number, but still a large percentage, studied the Talmud with all its complex argumentation. The Talmud was surrounded by a host of commentaries, varying in their difficulty, and some were studied by some and some by others.

This widespread study of the law had an effect not only upon their cultural life, but upon the status and the control of the law in their day-by-day existence. The fact that the law became a culture tended to control inevitable tyranny. All power tends to tyranny and there was occasional tyranny in the tiny Jewish communities. These leaders of the community were under constant pressure from the outer world. Heavy taxes and imposts were put in their hands to impose on the community.

Even if they were not in themselves tyrannical, they became the unwilling channels for outer tyranny.

But these leaders were also scholars of a legal system revered as God-given, a system in which mercy was commingled with justice. They knew that from the very beginning, in the Talmudic law itself, steps were taken to control the oppressiveness of the men in power. It was a duty always to consider the ability of the community to bear the burden before the burden was imposed. (b. Baba Metzia 78b) There is a typical statement by a sixteenth century Rabbi, Joel Sirkes, which indicates how the consciousness that the law was of higher status than the mere will of a governing body, helped to keep tyranny in check. This great authority said, "The power of the communal authorities to establish enactments applies only to such enactments as are manifestly for the *benefit* of the community. But such enactments as do harm, they are given no right to make; evil enactments constitute an error and the enactments are ipso facto void." (Responsa "Bach," Old Series, 60 & 61) Likewise this sixteenth century authority, in discussing certain decisions with a contemporary, said "all such matters [the opinions of certain scholars] have no authority over us merely because they said it. We need only follow that which was taught us from heaven. May the God of truth lead us on the path of truth that we may derive the law in its true meaning." (Responsa, Old No. 78)

Thus the conscience of the rulers was constantly called upon; but beyond that a still firmer check was the fact that they were not dealing with brutish people ignorant of the law. The Jewish community was learned in the law; and the law could always be argued. In the Middle Ages

it was even permitted for a member of the community who felt that his rights were impugned, to arise in the synagogue and forbid the continuation of the service until the right of a hearing was promised him. (*Responsa*, Moses Minz No. 102)

This widespread legal education was, of course, exceptional, but it involves a principle that is universally true. To the extent that the people in any community or nation considers the law as something mysterious and hopelessly technical and beyond its reach, it becomes an over-awed community which docilely accepts and submits. But to the extent that the people understand that the law is based upon fundamental principles of justice and fair-play, which every man can understand, to the extent that the average man knows more and more about the working of his government at every level, to that extent does tyranny receive its natural check. Not in vain did one of the great human architects of our freedom, Thomas Jefferson, become so strong an advocate of universal education. The Declaration of Independence can remain a reality only in a nation of independent minds.

I have had the privilege of presenting to you the legal-social experience of a small fragment of the world community. But this fragment was, as all religious people in the western world believe, a unique fragment of humanity. To combine scientific and scriptural terminology, we might say that this people was God's chosen laboratory. Through it, He experimented with certain Self-revelations. How deeply this is true for Christian tradition, Christian theologians know. As for the people of Israel itself, it is aware that it was once sternly commanded to abandon the great plastic arts of painting and sculpture

in order that the temptation to idolatry may vanish from at least one people on earth. This people, too, was to become devoted to the Divine Law which they were bidden ever to rediscover, so that the Divine became humanly natural. This law they carried with them for many centuries and governed their life completely until the beginning of the modern era when the self-governing Jewish communities merged into the various nations of the world and the child of Israel was then governed by the same law as his fellow citizens. Even pious Orthodox Jews today do not follow the great Jewish civil law codes but conduct their business according to the civil law of the people of which they are citizens. This strange succession of twenty centuries now ended had constituted a laboratory experiment in the Divine-Natural Law. In this small confined group, it was practiced and attained a majesty which it could not attain elsewhere. And as such it revealed its basic characteristics.

During these centuries, the Divine-Natural Law meant order and meant culture. To the extent that it meant order, it meant self-control through conscience. To the extent that it meant widespread culture, it achieved a democratic control over the abuses of power. These principles apply to all legal systems in all times. If men believe that the law is essentially natural and God-given, then with even a minimum of police power, order will reign. If men understand the legal foundations of their own government, they are the intelligent citizenry against which no tyranny can prevail. This is the experience and the universal meaning of Divine-Natural Law in Jewish history. It was small in scope, but it applies *ubique et omnibus*, everywhere for everybody.

THE NATURAL LAW IN THE MOSLEM TRADITION

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THE NATURAL LAW IN THE MOSLEM TRADITION

IT IS ONE of the most essential elements in the analysis of the concept of Natural Law that it is universal and objective, is rooted in the nature of things and in the nature of humanity. But in the moral code of nations, tribes and diverse human groups, there is also an element of relativity and morality seems to change with the latitude and the longitude, so we find an interesting or sometimes confusing diversity in customs, conventions and laws. The problem of the absoluteness or relativity of truth and goodness is at least as old as the Greek Sophists, and it may be that it emerged much earlier in various civilizations of which we have no certain record. The problem has been raising its head over and over again in various epochs and among various cultures. It does a great credit to the catholicity and wisdom of the organizers of this symposium that they should have felt that dealing with the objective and universal foundations of law and ethics, they could not confine themselves to inviting only the thinkers and jurists born and bred within the Christian tradition. When a discussion is limited to a circumscribed background and confined to debating within the framework of one national or religious tradition only, it necessarily loses its trait of universality. In the conflict between religion and science the greatest rapier thrust of science against religion has been the universality and objectivity of science over against the particularity and subjectivity of religion. Science has surely

united humanity at least in its concepts though it may destroy humanity by being divorced from the belief in all those intrinsic values which may be collectively designated either spirituality or philosophical idealism. Universal morality or spirituality should have and could have contributed much more to the solidarity of humanity, but, alas, religion like racialism and nationalism divides much more than it unites man with man in bonds of brotherhood. By religious bigotry and schisms the essence of spirituality and universal love has been considerably weakened. Science having obtained universality and objectivity challenges the validity of all religions. The challenge has not been squarely faced by any religion as yet, though admirable individual efforts are sometimes made in this respect.

Materialism, during the last century and a half continued to fortify its own stronghold, at the same time undermining belief in those eternal verities which lie at the basis of all essentially human existence. Every advance in physical science tended to belittle and almost annihilate the very man who was so proud of discovering the secrets of physical causation. It began to be said in the last century that out of every three doctors one at least is an atheist having been convinced of the utter dependence of the soul on physiological processes. Now it is said that the much-vaunted personality of man is a matter of the secretion of his glands. Everywhere the higher is explained away in terms of the lower. Man became only first or second cousin of the ape, so, to understand man you have to understand the ape more thoroughly. Reason, the discoverer of universality, uniformity, or laws, when applied to the human being, turned out to be a most

obedient servant of the instincts which man shared with the tiger, the wolf, the ox and the ape. Science arrived at certain conclusions like the following which began to be believed as self-evident truths: Matter is the ultimate reality; its working is blind, though inexorably uniform. Human values are not rooted in divinity or any cosmic reality and in the words of Bertrand Russell, science has no place for values. There is nature and there is law, and combining the two, you simply say that there is such a thing as natural law, but this natural law is loveless as, vice versa, in the case of numerous human beings, love is lawless. There appears to be some design in the universe at large and in the make-up of a leaf of grass but the wonder of wonders is that there is no designer; there is a cosmic architecture but there is no architect. The book of Nature is worth reading and it is a fascinating study, but the book has written itself and there is no author. Truth and Goodness have biological origins and they are also subjected to the struggle for existence and the survival of the fittest; whatever succeeds and establishes itself becomes true and good for the time being. The position that the Greek Sophists had adopted has been strengthened a hundredfold by the achievements and speculation of modern science. In many of the intellectual and academic centers of European and American civilization, still dominated by the hypothesis of materialistic science, and still living under the spell of sensate culture, it has become difficult to talk about Natural Law in the spheres of ethics and jurisprudence.

In order to establish a thesis about the reality or universality of Natural Law, one is compelled to adopt the Socratic method of defining one's terms before starting any

discussion. The word Nature has always been a very ambiguous term with various and sometimes divergent and contradictory connotations. For Socrates and Plato it meant one thing and for Aristotle it had a different meaning. For Plato, only universal concepts exist eternally and what we call Nature is but a poor, shadowy, imperfect and distorted imitation, and change is comparatively unreal.

For Aristotle the nature of a thing is what its entelechy represents, that is to say the perfection of form which it is destined to attain. Ultimate reality, identified with God, is self-thinking Thought or Goodness which statically rests in itself unmoving and unmoved; all conscious creativeness and dynamism are foreign to it. The Stoics adopted the motto "Live according to Nature" and by Nature they meant Universal Reason which is immanent in the universe. In Vedantism and Buddhism Nature became Maya or Illusion, the product of Avidya or Cosmic Ignorance, and salvation meant not living according to Nature but getting rid of Nature mainly through the realization of its unreality. In the West too, Christianity for long continued to be an ascetic creed saying "No" to life and turning its back upon Nature. I will not say much about it for fear of abusing your hospitality and treading on dangerous controversial ground.

Gentlemen, you invited me from across the seven seas primarily with the object of hearing what Islam has to say or teach about the subject of Natural Law. Now I will try to keep myself within range of my topic.

Islamic Ideology is like a pyramid with only one point at the top. Islam is a mono-theistic creed and everything in it follows from its concept of the unity of God. From

this one concept follow its ethics, its entire sociology, its politics and its economics and from this one concept follows as a necessary corollary its attitude toward science and the physical universe. As God is one Who is the Creator or Sustainer of the Worlds, we live in a Universe and not a multiverse. God's relation to his Creation is not completely comprehensible and no analogies can be of much service because in the words of the Quran, there is nothing like unto Him. The Muslim consciousness has never bothered much about the relation of God's immanence to His transcendence. For a Muslim, God is immanent as well as transcendent; the how and the why of it lie beyond the reach of perceptual or conceptual knowledge, and the imagination can create symbols only. From the unity of God, Islam derives not only the corollary of the unity of all the worlds but the unity of humanity as well. The Quran says all human beings are essentially one, because they spring from a single being or a single soul. The Prophet said "All human beings are the children of one God and God is my witness when I say that they all belong to one family." Let us follow these corollaries still further. From the unity of humanity and its basic sameness Islam drew the conclusion that all true religion is one. It is an essential part of the Muslim Creed to believe that no nation on earth has been left without at one time or another having been taught the essential truth of religion and all the teachers whom we call prophets had essentially the same message. Everyone taught the unity of God and exhorted his people to practice the basic virtues. Conventions, customs and modes of worship have differed from age to age but the essentials of religion and morality have remained the same. Gen-

erally, people in the West think that Islam is a special kind of religion with certain distinctive dogmas preached by Muhammad. It will help us in the subject of our Natural Law if you, at the outset, remove that great misunderstanding from your minds. Muhammad claimed to promulgate no new creed or dogma. He never tired of saying that he was presenting the same thing that Abraham and Moses and Jesus taught. Few Christians know that a Muslim cannot remain a Muslim if he does not believe in Christ or Moses or utters one blasphemous word against them. In our daily prayers we recite verses of the Quran which praise these great servants of God and humanity but Islamic monotheism is uncompromising. Christ or Muhammad or Abraham may be saturated with the attributes of God in so far as it is humanly possible but none of them is to be worshipped as a complete incarnation because God cannot ever be completely incarnated. A great Muslim, the Sufi philosopher Rumi, has said that a piece of iron in fire may begin to look like fire itself and may imbibe many of the attributes of fire but still iron and fire are not completely identified. The Universal Creator, the Cosmic Absolute, can be only one; two coeval absolutes are inherently impossible.

I said in the beginning that science challenges the validity of religion because of the lack of universal laws in religion. Islam anticipated that challenge and answered it. Islam asserts that religion is universal and ought to be universal. Science has been arrested at the stage of physico-mathematical mono-realism. It is suffering from a fixation at one aspect of a universal reality which comprises not only Matter but Souls. When Science has released itself from its prison house of measurable data and

begins to take in the imponderabilia of religious consciousness, then it will be compelled to seek the further unity of the spiritual and the physical world, which is bound to lead ultimately to that Supreme Unity which creates and sustains all. In the very first lines of the Quran, Allah is characterized as merciful, beneficent and forgiving and the sustainer of all worlds, "Rabb-ul-Alameen." Islam without being pantheistic in any extreme and untenable sense had put forth the concept of God as immanent in all Nature through His power, will, wisdom and love. God's primary revelation is His entire creation which comprises all Nature. The concept of the supernatural does not exist in Islam; the Quran says all creation is meaningful and every phenomenon is a sign and a symbol pointing towards God. The word *Ayat* is used in the Quran for a verse in the scripture as well for a phenomenon in Nature which signifies an identity of both types of revelation. As all creation is meaningful so all creation is alive; there is nothing which naive common sense or science calls dead matter. Nature is not simply a background or a theatre for the tragedy or comedy of man; due to the unity of the Creator everything in Nature serves the whole and is served by the whole. Nature's Laws are God's thoughts thinking themselves in orbits and tides. As there are signs of God's power and wisdom and beauty in all Nature outside man, so are these signs inscribed in the hearts of all men.

Lest I may be suspected of reading my own thoughts into the ideology of Islam, let me quote verbatim some verses from the Scripture which deal with the problem of Natural Law. In the Quran the one true and universal religion is given the name of Islam, which means Peace

as well as Surrender to the Will of God. This two-fold meaning signifies that God is Love and Peace and demands Love and Peace from His creatures. Peace is secured in the physical universe through an ever-increasing harmony and by those uniformities of behavior which form the special sphere of investigation of physical sciences. The Quran teaches that Laws of Nature are the established ways of God and they do not change. Islam in this sense is not only the religion of all the prophets and the common element in all spirituality, but it is the religion of the entire Universe because the Universe becomes an ordered whole only by submitting to the will and wisdom of God. Here is a literal translation of a most pivotal verse about the nature of religion. Says the Quran, "This is the Nature of God on which he has formed and moulded the Nature of man. The understanding of this Nature constitutes right religion; in the Laws of God's creation you will find no alteration." (Rum 30) No religion which is not based on this divinely ordained human Nature, common to the whole of humanity, can be called true. No religion other than this is acceptable to God. This religion is revealed in Nature in general and a special revelation of the same religion is made to the prophets. The verses of God's revelation are inscribed with letters of light in the starry heavens, in the prophetic consciousness and in the minds and hearts of those who reflect rightly on Nature within and Nature without. Here are some verses teaching that when God created the souls of humanity, He made them enter into a covenant with Him. The Creator asked the souls "Am I not your Lord and they replied, yes." So obedience to Nature as constituted by God is implicit in every soul.

Islam does not contemplate wrapping up religion in mysteries or demanding assent to irrational or ultra-rational dogmas nor does it issue commands that are dictated by an outside authority only. About wisdom and guidance the Book says, "Those who possess knowledge, these clear verses and these obvious signs are inscribed in their breasts and only those dispute them who are unjust" (to themselves and to others). (Ankabut 49) "And why do they not reflect on their own souls?" (Rum 81) Purity of reason which reflects the purity of heart reads God's and Nature's signs and symbols aright. The Quran says, "He who is destroyed is destroyed in spite of obvious signs and reasons and He who is granted real life is granted it because of evident reasons." (Anfal 42)

I must repeat that one of the distinctive features of the Quranic revelation is that it obliterates the distinction between the natural and the supernatural and trains humanity to seek God in the common phenomena of Nature. In the Quran the main argument for the existence of God is what is philosophically called the teleological argument. The orderly movement of the stars, the growth of plants, the wonderful adaptive anatomy of the camel are repeated in numerous verses as obvious proofs of the existence of a wise and beneficent Creator and Sustainer. Francis Bacon in his letters to Trinity College, Cambridge, says: "After the sacred volumes of God and the Scriptures, study in the second place that great volume of the works and creations of God." But the Muslim scripture does not give to the study of Nature a second place. The Quranic revelation is nothing but an exhortation to seek God in the daily phenomena before your eyes and in the workings of your own souls. Besides

this, the rise and fall of nations is interpreted from the viewpoint of eternal ethical principles. All natural causation is an effect; Islam is confident that a man who reflects rightly and reflects constantly on the meaningful and orderly occurrences in Nature will be surely led to comprehend God, the Cause, without whom the cosmic correlation of all phenomena and all experience would be incomprehensible. Even without religious experience of a specific nature, pragmatically, too, God would be postulated as the best working hypothesis. It would be a truth that would work much better than atheistic materialism, whether mechanistic, evolutionary or dialectical.

According to the Quranic teaching, religion is essentially a comprehension of the Natural Law and living in obedience to that Law, for only thereby shall man be true to himself, and only by being true to himself shall he be true to his God and just to the rest of His creatures and His creation. About two centuries after its advent Islam was assailed by Greek Rationalism and later on by acosmism of the Buddhistic or Vedantic type. Islam assimilated the best elements of Greek Rationalism but widened the connotation of rationality to an extent undreamt of by Socrates, Plato and Aristotle. To those who asserted that Nature was unreal like a madman's dreams, it replied that Nature was solidly real as God the Ultimate Reality is also the reality behind all appearance. The Quran taught about God, "He is the Beginning and He is the End; to Him belongs Appearance as well as Reality." He is the Abiding Essence in all Change and Change too, is not unreal because it takes place according to the laws promulgated by Him.

One might get impatient at this stage and say that

though the Natural Law Institute has a religious basis, we are concerned here more with man than with God so let us hear something specific about man. I hope I have not taken the name of God in vain. I was constrained to say something about this ineffable Reality because Islam has taught us that unless a man starts with a right conception of God, the conclusions that he would draw about the place of man in the Universe would be wrong, because the premises were wrong. All the essential principles and precepts of Islam and all the discipline that it recommends follow as corollaries from its concept of God. We are dealing in this Institute with the rights and duties and functions of man as a member of society and as a citizen of a state that follows some system of jurisprudence. What is man according to Islam? Without quoting chapter and verse from the Holy Book, I will try to give you in a nutshell what Islam thinks about the doctrine of the Fall of Man prevalent in the pre-Islamic Israelite tradition. Islam has not refuted that belief categorically but has touched it only tangentially. After the creation of the heavens and the earth, man was the last to appear. Originally his body was made out of the elements of the earth but the Lord of Creation infused His own Spirit into him. He was endowed with the liberty of choice which is an essential part of the divine Essence. Misled by Satan, the personification of Evil and Revolt, he exercised his liberty by some sort of disobedience, the nature of which is not specified in the Quran but is given symbolically as eating a forbidden fruit. But Adam repented soon and turned to God for forgiveness. Now it is one of the distinctive teachings of Islam that sin does not stick to any soul that turns sincerely to God after a

lapse; the disturbed equilibrium of life is again restored by Divine Mercy and a forgiven man becomes as pure as if he had never committed the sin. According to Islam sin is not an inheritable commodity, so the progeny of Adam was not poisoned by a hereditary taint. The Quran teaches that in the matter of spiritual life no man can bear the burden of another, or as you might say in your Christian terminology, that everyone has to bear his own cross. Islam does not believe in vicarious reward or vicarious punishment. Islamic doctrine of good and evil is that man is free to choose good or evil. With the Lord there is a sensitive balance in which good and evil deeds are being perpetually put in the scales. The Quran says that not an atom's weight of good and evil escapes this balance. An evil deed however, may be nullified by a counterweight of goodness. The Prophet said that all human beings are born with the basic nature common to all men; only parental influences or social pressures impose on them special creeds and codes. The Quran says that two ways are shown to man; he is free to choose either, with consequences that necessarily follow from the intrinsic nature of the deed. The Quran converted the legend of the Fall of Man into a doctrine of the potential dignity of man. All the angels or Divine agencies in the Universe were ordered to submit to Him; they objected at first fearing that this new creature, possessing the liberty of revolt, would cause bloodshed and create confusion in the Universe which was one symphony of praise for the Lord. Now again comes a distinctive feature in the Islamic version of this symbolical legend. It was not of the tree of the Knowledge of good and evil that Adam had eaten the forbidden fruit; it was ignorance and not

knowledge that caused the Fall, whatever be the nature of that Fall. Adam was thereafter rehabilitated through repentance born of knowledge of the nature of things that made him superior to the rest of the creation and made even the angels prostrate before him. His body and soul have been endowed with the best of constitutions, but liberty being one of his essential endowments, if he chooses to sink he may sink even below the animals, because all animals lead a life according to their natural instincts. So man, according to his nature, has a wide range of choice; he may develop towards the assimilation of Divine attributes, or if you excuse me a play on words in such a solemn topic, he may choose *devilupment*. If he understands his own Nature within, and the cosmic Nature without, he can conquer all Nature through knowledge and make it subservient to the realization of values that are human as well as divine. The Quran says that such a man becomes God's vicegerent on earth. If he submits to God, all Nature would submit to him; if he disobeys God, even a worm will get the better of him. Fear of God which means the fear of offending the nature of things, fear of violating the laws of God, and the fear of repudiating the ideals towards which he has to strive—of all these fears he will be relieved. In the words of the Quran, such a man "grieves not, nor does he fear anything." He has a vision of "the Mercy of God which covers everything," and where there is Divine Love and Mercy, there is no trembling before an uncertain Fate. Any impersonal cosmic destiny has no hold on him because he has identified his will with the will of God. Touching the feet of the Lord in voluntary and loving surrender he saves himself from falling at the feet of the devil.

All men are endowed with Reason and Liberty. The Quran says that the best of Divine gifts is wisdom; and wisdom dictates surrender which would dispel discord and lead to eternal harmony with God, with one's own nature and with the nature of things. Through wisdom and surrender man gets more and more power which is not an end in itself but a necessary means of the enrichment of intellectual, moral and spiritual life. I have already mentioned the Islamic doctrine of the unity and solidarity of humanity which implies that the fundamental code of human morality and the basic religion of all men must possess the characteristics of universality and objectivity. Whatever unites men in the pursuit of ideal aims is truth, whose other name is love, and whatever divides them is untruth which must lead to confusion and discord. Let men have different codes of manners and different modes of worship, but the essentials of ethics must be the same for all because they are inherent in the common nature of all men. Let them stand, sit, lie prostrate or kneel in their worship, but they must worship one and the same Lord. The Quran demands nothing else from the whole of humanity. Although I am not always giving literal quotations of verses yet I feel obliged here to quote two verses of the Quran which give in clear words the essence of a religion of humanity.

"The group of people who have believed (with the Prophet) and the Jews and Christians and the Sabians, whoever believe in God and the hereafter and do virtuous deeds, their reward is with their Lord, they shall not grieve nor shall they have any fear." (Sura 5, Verse 72)

In another verse it is repeated that whoever "turns his face towards God in surrender and does good to man-

kind," has the right religion in him and has attained well-being here and hereafter. But whence does man get the basis of his morals which should form the basis of laws for the whole of humanity? The principles of law must be the principles of ethics and when law gets divorced from ethics, it stultifies itself as, in modern times, economics and politics, cutting themselves adrift from ethics, have created a chaos in human existence. The teaching of Islam is that the fundamental principles are rooted in the nature of man, and men of knowledge, not misled by personal or collective egoism, can discover them. The Prophets of God act only as pointers and guides; they impart no new knowledge from above which was not potentially present in human nature itself.

The Socratic-Platonic theory of knowledge is that all true knowledge is only reminiscence. The Quranic Revelation is in complete accord with this theory. The Prophet is seldom asked to teach people this or that; he is ordered only to make people remember that which they have forgotten or overlooked. When the clouds of ignorance and forgetfulness are dispersed, the sun of truth will begin to shed its effulgence within their own souls. The entire Revelation of the Quran is called a *Zikr*, which means remembrance. When the different nations of the earth and the followers of different religions meet, they should not meet to convince one another about their distinctive dogmas and mysteries; if they do that, they will find no common ground. Religious faith is now eclipsed all over the world by the powerful influences of materialistic sciences. It has become difficult, almost bad form and a violation of etiquette to mention the name of God in an international gathering of politicians or jurists.

People have begun to say that for humanity, morality is enough and religion is nothing but morality tinged with emotion. I say, very well then, let us start with basic morality, although I have serious doubts whether morality can lead a healthy autonomous existence without being rooted in theism. It is, nevertheless, a step towards reality that the nations of the earth divided racially, nationally, and by narrow and fanatical interpretations of religion, meet and put their signatures to a Charter of fundamental human rights acknowledging thereby the common ethical basis of humanity. Humanity seems to be advancing towards God, though with uncertain and hesitating steps. When the present-day materialism has had its day and people begin to realize a common spiritual basis as well, they will put their signature to belief in one God as they have consented to believe in one world and one humanity, however their actual practice may fall short of their verbal professions.

I must repeat again that all basic principles of Islamic jurisprudence are corollaries primarily of its concept of God, or you might put it philosophically, its view of Ultimate Reality. Reason is an essential attribute of God which is manifested in all the gradations of existence — physical existence, organic existence including plants and animals, and human existence. As there is an ascending and descending scale of life, so there is an ascending and descending scale of Reason; but whatever be the level of existence, there is in it, according to the Quran, order and measure as it is explicitly said in this verse, "With Allah there are infinite stores of everything but whatever is created or manifested is done so in due measure and proportion." As at every level there is Reason which is

only another name of orderliness, so at every level there is providence, beneficence and guidance. Everything has its own peculiar nature or a distinctive law of its own being, but Nature taken as a whole has certain essential traits in common. It is on account of this that the Quran often points towards the realization of values that ultimately transcend the lower realms from which analogies are drawn. Man is asked to study the rationality of existence at all levels which would convince him that Reason is all-pervading and so is Beneficence or Providence all-pervading.

Now I will turn towards another tenet of Islamic faith which also follows as a corollary from what is said above. Reason is all-pervading and so is Cosmic Justice or Cosmic Love all-pervading, but their manifestation in humanity is not at the same level everywhere. In the common mass of humanity, Reason is blurred by inordinate desires, by social distortions, by vested interests and by what is now termed in psychology, rationalizations of the unfair demand of instincts. Reason and liberty which are ultimately meant to make man assimilate divine attributes get jeopardized through various personal and social factors. So God raises among humanity specially gifted, specially guided and specially commissioned individuals to purify the hearts of men and clarify their vision, not of mysteries, but of truths which are inscribed within their own souls. They tell the people that the Sun of Truth is there if they only open their eyes or windows. Belief in prophethood is an essential tenet of the Islamic faith. Reason unguided and liberty unchecked may take men headlong towards perdition. If pure Reason could manifest itself everywhere and be not overwhelmed by illusory desires there

would be no need of prophethood. But history bears evidence to the fact that individuals and nations begin to justify much in the name of Liberty and Reason which is diametrically opposed to their original purpose and destiny. The very first chapter of the Quran states that "when the evil doers are asked to desist from spreading confusion and tyranny, they reply they are doing nothing but reforming mankind." This clearly shows that merely professing faith in Reason, Justice, Liberty, Fraternity or Natural Law is of little avail because these generalities are used by tyrants as well as genuine lovers of God and Man. Look at almost recent Western history, the Reformation, French Revolution, American struggle for Independence and American Civil War, callous development of capitalistic industrialization especially in its early phases, the depredations of imperialism of one type or another, and the ethical codes of racialism and nationalism. Were not always some men at the helm of affairs on one side or the other in all these movements who were using highly idealistic slogans to justify the advancement of their base motives? Some were doing it consciously and others unconsciously, but all of them were using those very concepts which we have gathered together in this place to prove and establish for the peace and welfare of mankind. The great apostles of pure Reason like Plato and Aristotle, who deified it, were found wanting when trying to apply Reason to human welfare. Their society was three-fourths slave and only one-fourth free and they put their seal of sanction on the status quo by refusing to grant fundamental human rights to non-Greeks whom they called barbarians, which meant the whole non-Hellenic world; and Aristotle justified slavery

by trying to prove that slavery is a natural institution and a large mass of humanity are born as slaves for the service of the upper layer of society so that culture in the Greek sense may continue to flourish and leisure classes be free to enjoy life or philosophize. In the American war for the emancipation of slaves, Greek arguments and even pseudo-Christian arguments were used to maintain that inhuman institution. At the beginning of the colonial period in European expansion jurists began to promulgate the dictum that heathen populations subdued by Christian nations lose all rights. Being non-Christian they are hostile to God and Christ and the enemy of Christ forfeits all human rights. Nazi and Fascist racial nationalism was justified in religious terms and in terms of Natural Law, and Hitler proclaimed very often that he was commissioned by God to establish the superiority of the *herren-volk* which God and Nature meant to do. He said that the Natural Law of the domination of noble races had been violated by ballot box democracies and by mercy-preaching priests. He was saying the same thing theistically that Nietzsche, the Atheist and open enemy of God and Christianity, had taught. So we see that Natural Law can be invoked by saints as well as devils. The distinctive trait of Islam is that it realized this danger of leaving humanity to guide itself by Natural Law and Natural Reason. Natural Law stands in need of being interpreted and implemented by men of God who are not misguided by personal or class interests and mean desires. Islam teaches that every prophet was such an interpreter. The Quran laid down the principle that right religion is nothing but Natural Law rightly understood, but Natural Law must be formulated into

certain definite principles by a man whom God Himself has chosen. This work cannot be safely left in the hands of tyrants who have attained power by force and fraud, nor is it safe to trust the majorities created by successful electioneering caucuses.

The success attained by the Prophet of Islam is unparalleled in the history of prophethood. The writer on Islam in a former edition of the *Encyclopaedia Britannica* called Muhammad the most successful of all the prophets, and the English sage Carlyle when he sat down to write about the heroes of humanity in the various spheres of human existence, chose Muhammad as the Hero among the prophets, which took aback many a missionary and political propagandist against Islam. Allow me to tell you in brief wherein lies his great achievement. He made it clear for all times that religion essentially is belief in the Unity and Beneficence of God. From that followed the unity of all the worlds and the unity of humanity. But the unity of humanity could not be left as a mere doctrine or a sentimental assertion, or a remote and impracticable ideal. It must be implemented by principle, precept, example and legislation. The Quran says, however, that this unity must be achieved by love and tolerance and must not be attempted by force. The Quran has repeated in many places that God could have made all men believers by compulsion but He did not choose to do it. Not that he loved to see infidelity side by side with faith, for mere love of variety. All Nature below man, the stars above and worms below obeyed implicitly the laws of their being; they cannot choose to do otherwise. But Man has to submit to God through free-will; voluntary surrender to God stands higher in the

scale of being than surrender through unalterable fixed laws. Therefore the Quran issued the injunction that about religion and conscience there must not be any compulsion. Let men not attempt in their enthusiasm that which God has not chosen to do, notwithstanding his omnipotence. Muhammad and his few early followers were persecuted and martyred because religious liberty was not granted by the militant barbarous society in which Islam arose. For more than a decade they suffered torture and social ostracism as early Christians had suffered, but then came a time when permission was granted to them to repel force by force only up to a limit when the social and political order becomes safe for the liberty of conscience, not only for the Muslims, but also for the non-Muslims. The mighty Caliph Omar when he had made an extensive realm safe for Islam would not compel even his Christian slave to accept Islam. The slave refused to be converted and Omar said, you have a right to refuse; no harm shall be done to you; religion is free, Islam fought only to establish this right. When non-Muslims became protected and loyal citizens of the State, they were granted equality before law and equality of opportunity. The distinction between the rulers and the ruled was abolished. The protected non-Muslim citizens were not only granted complete religious freedom but the freedom to get their cases decided by their own laws and their own judges. All racial and tribal distinctions, privileges or lack of privileges were abolished by law. The Prophet in his last speech said "Hear ye people, an Arab has no superiority over the non-Arab, nor is the non-Arab superior to the Arab. Individuals become high and low through their character only; the best of you is he who

bears the best character." This was the first prophetic implementation of the solidarity of humanity. Islam lost much of its original vigor through the vicissitudes of history, but the great historian Toynbee says in his book on the clash of civilizations that Islam has succeeded in this respect as no other creed or culture has succeeded. In the society created by Islam, which extends from Morocco to Indonesia, racial and national distinctions are obliterated and Western racialism and nationalism, the major curses of modern humanity, have not been able to poison the wells of Islamic brotherhood. Division of humanity into hostile groups on the basis of color, caste or creed is unnatural because it strikes at the roots of essential human values and poisons all morality and spirituality. This is an outstanding example of the implementation of divinely ordained Natural Law by a divinely commissioned man.

In the interpretation of Natural Law, Islam also turned its attention to a division of humanity into a privileged and an unprivileged sex. The two sexes have a certain natural division of functions but about fundamental human rights there must not be any invidious distinctions resulting in domination and suppression. Islam granted women equality of civil rights and economic independence before any creed or culture had dared to attempt it. Marriage was made a civil contract in which any condition which is not immoral may be inserted. Later lawyers, jurists and decadent states did much to water down the rights of equality granted by Islam but in the recent awakening in all Muslim countries women had not to struggle for their elementary rights as they had to do in many non-Muslim countries because a mere appeal to

Islam accomplished what the suffragettes in England could not secure even after a hard struggle. Woman's right of inheritance, right of holding property in her own name, the right of choosing a partner in life and the unpalatable right of divorce were all granted by Islam, though about divorce, it was said by the Prophet that it is the most hateful thing that he had to permit, and all attempts should be made by the persons concerned and by well-wishers to restore amity between a married couple. It is unnatural to compel incompatible and unwilling partners to live together in forced intimacy.

In the field of economics too, Natural Law was interpreted by Islam and certain definite injunctions laid down. All avenues of exploitation were blocked though the right of individual initiative, and private property were upheld subject to certain conditions so that unsocial instincts of selfish men do not have an opportunity to profit by this permission. All surpluses at the end of a year were subjected to a capital levy of a fixed and reasonable proportion so that, to quote the words of the Quran, "wealth does not circulate only among the rich." Partnership of capital and labor on equitable terms was allowed but interest on money and all bargains suspected to be usurious were prohibited. Creating even large capital by honest trade was permitted and a landed estate could be acquired and developed by private effort but at the death of the owner it must be split up by inheritance. The law of primogeniture, which created feudalism and big-landlordism, was not recognized by Islam. Muhammad's injunctions about the basic principles of economic life are a thing apart from laissez faire individualism and complete totalitarianism. If the Islamic system were followed,

hostile classes of haves and have-nots would not develop. Islamic economics has socialistic and equalitarian trends but it is definitely against totalitarian control of all economic life. If Islam allows liberty in religious belief and ways of life to all citizens it would certainly not curb liberty of initiative in trade or manufacture or holding of private property or right of inheritance. But all rights are subject to the demands of social security and general well being. As has been said by certain Muslim jurists, there is hardly any right in which Allah has not a share; in that sense no right is absolute, and it is generally understood that in Muslim law Allah stands for public weal. Islam is such a great believer in religion and virtue being based on Natural Law that the word used for morally and legally right action is "Maruf," which means "the well-known." Certain fundamental principles of virtue are so well-known that nobody can seriously dispute about them or deny them. But the Quran says that the unjust dispute about them. In another place, the Book says that whatever excuses a man may be concocting, deep down in his soul he knows that he is defending a wrong and indefensible position.

There is a great emphasis in the Quran on doing justice to all under all situations.

The righteous people are those who exhort people to follow the well-known path of virtue and prevent them from doing the opposite. (Tauba 971)

God orders you to practice justice and generosity. (Nahl 1393)

Do justice even to your enemies. "Let not the enmity of a nation incline you to become unjust to it." (Maida 13)

"O people who believe, become supporters of justice, be witnesses of Truth before God, even if it operates against your own selves." (Maida 29)

God promises to humanity that he will make the people see signs in the Cosmic Nature as well as in their own souls until they see that what they were told was true.

The Quran repeatedly points to these two sources from which God's wisdom and God's Laws can be studied. The psychical life of man is vitally connected with the Cosmos in which he lives. The study of physical or biological nature will reveal symbols and signs that would benefit and guide the spirit of man. Spiritual life cannot be developed in a vacuum. The environment, the body and the spirit act and react on one another in numerous ways. Many a man has been led from the study of the heavenly bodies and the study of plants to believe in the Creator whose attributes are love and beauty. I recently read a book by a Western writer in which he describes his quest of God, reading whole libraries of philosophy and theology and finding God nowhere. At last, he took to gardening and he says at last his flowers and plants planted in him a soul-satisfying belief in God. He came to the conclusion that no gardener could be an atheist.

There is one important point in the Islamic interpretation of Natural Law. Islam took a definite stand against asceticism. Man is conceived as a social being. He is prohibited to forsake this world in order to gain salvation in another world. No individual can seek God or find Him by isolating himself from his fellow-beings or by despising his body or by ignoring the universe in which he lives. A man is not an individual but a person and he has to develop his personality harmoniously. The Quran says

that there are people who seek only the good of this life and there are others who pray for well-being in the next world. Both of these seekers are mistaken. The Muslim prayer is "O Lord, grant us well-being in this world and in the life hereafter." Here is the literal translation of a verse which sums up the Muslim view. "Among people there are some who say 'O Lord, give us the good things of this world.' Such men forfeit their share of well-being in the Hereafter. There are others who pray 'Grant us the good of this world and also the good life Hereafter and save us from the fire of punishment.' These are the people who get properly rewarded for their deeds." (Albaqarah 202) "As to asceticism, some people have invented it." (Alhadeed 27) "Religion is not meant to impose on people unnatural and unbearable tasks." "Make life naturally convenient and don't create difficulties." "Choose from actions those you are naturally able to bear." (Bokhari and Muslim sayings of the Prophet) "Do not be hard and severe on your souls; many a nation before you destroyed itself by ascetic severities; you find their remnants now in monasteries and cloisters." (Kabir Ausat, 'saying of the Prophet')

The ideal man in Islam, the exemplar of virtue and spirituality, is not a monk or a priest without a family who has adopted religion as a profession and does nothing else. Islam did not permit a professional priesthood. The life of spirituality must be lived as the life of a common man who earns a living by honest labor. The Prophet said the worker is the friend of God and among the workers he appears to have loved the manual worker the best. It is related about him that he saw a man sitting by him with dark specks in the palm of his hand. The Prophet

asked him, "What are these dark lines, have you written something on your palms?" The man replied, "The palms have become dark and horny because I work with my spade on very hard ground to earn a living for my family." The Prophet thereupon kissed the hands of the honest laborer. Whenever it was reported to him that a man was so engrossed day and night in prayers and fasting that he was thereby neglecting to care for his health and was unable to perform his family duties and social requirements, he strongly disapproved of it. He said human duties are many-sided; one must be true to every aspect of life. His companions and followers were laborers, traders, soldiers and family men at the same time. A visitor, probably from the Roman territory, reported about them that they were strange people, they were monks at night and cavalier soldiers by day. This has been the ideal of Muslim life throughout the ages. The body and the soul, the man and his social and physical environment, form one indivisible organic whole. It is unnatural and ultimately self-defeating to develop one aspect of life to the total neglect of other aspects. The Natural Law according to which man has been constituted requires that all life be developed as an organic whole. There is nothing like pure spirituality for man that could develop in a vacuum. No man can be said to have succeeded unless he had lived a harmonious life. According to Islam, real well-being cannot be attained by a man who, instead of rationalizing and harmonizing his natural urges, has tried to destroy or suppress them for the salvation of his soul. Such a man is really not saved.

As already stated earlier in this discourse, Islam considered it insufficient, uncertain and dangerous to limit

itself to the enunciation of broad and general principles of faith or a mere statement of cardinal virtues only. A man commissioned by God must demonstrate to humanity certain definite implications and applications of these broad principles. So with respect to Law, Islam can be studied at three levels. First level is the level of general principles which Islam considers to be natural and universal. They are clarified by the prophets but are verifiable by human reason and human experience. They might form the basic principles of the constitution of an Islamic State:

(1) The Islamic State should aim at creating citizenship of complete freedom for all.

(2) Slavery is an unnatural institution and so is compulsory servitude of all kinds. Slavery, on which entire ancient civilizations were based, could not be abolished by a single fiat. People were exhorted to emancipate their slaves, which was considered as a great meritorious act; expiation for a number of sins is the emancipation of a slave. So long as society could not get rid of the curse of slavery, slaves should be granted elementary human rights. The Prophet said you could keep them on the condition that you feed and clothe them as you feed and clothe yourselves. His great successor Omar started the work of abolition of slavery by steps, first ordaining that no Muslim could be a slave and then extending the order that no Arab could be a slave, Muslim or non-Muslim. His career was cut short by the dagger of an assassin. Given another decade, he would have wiped out slavery in the entire Muslimdom, which had incorporated into itself the whole Persian Empire and some provinces of the Eastern Roman Empire. The rulers after him became

slack in this respect, but the influence of Islam humanized slavery to such an extent that slaves became ministers, jurists and commanders and some of them founded Royal dynasties in India and in Egypt.

(3) The whole trend of Muslim legal principles is towards liberation and liberty.

(4) The women suppressed almost in all societies, contemporaneous with Islam and even centuries afterwards, right down to the present times, were granted equality of civil rights, freedom of contract, freedom to inherit and freedom to hold property in their own names. Marriage was made a contract terminable if certain essential or stipulated conditions are not fulfilled. The general principle of all legislation about women is stated in the Quran in the words that women have rights over against men as men have rights over against women. The Prophet said that the best among you is he who is best in the treatment of women.

(5) Complete religious freedom for all is a command repeated in the Quran. Within a Muslim State every citizen has a right to profess and practice his religion. The State must respect even the personal laws of all communities. But as no religious or non-religious community can plead freedom of conscience or freedom to follow its own way of life in matters that are obviously immoral or unsocial, the Prophet would not accept full citizenship and complete protection of a tribe or a community that insisted on practicing usury.

(6) The only authoritative code of principles of law and precepts for the Muslims is their Holy Book, the Quran, but the entire legislative enactments in the Quran cover only a few pages. The Prophet supplemented them

by some precepts that implemented the general principles enunciated in the Quran. The Prophet was well aware that it was undesirable and impracticable to draw up a comprehensive code that could cover the immense variety of human situations. Even in that primitive society, situations arose for which there was no definite precept or rule. The Prophet was loath to multiply rules. Khuzri, in his history of Islamic Jurisprudence relates that a person asked the Prophet about certain detailed rules and the Prophet's face became red with indignation. He said to the man that "nations before you were destroyed by overquestioning about details. If God leaves you a large field free to exercise your reason and conscience why do you want to limit the liberties of your Muslim nation by questioning me about this or that, because I am afraid that every answer that I give would become authoritative because of my position, and thereby you will become the cause of tyrannizing over humanity." Now let me relate to you something most vital about the question of law, on the authority of no less a man than the Prophet himself. He was appointing Muaz-ibn-i-Jabal as Governor of Yemen. The Prophet asked him on what basis would he decide cases. Muaz replied, "on what I find in the Quran." Then the Prophet asked, "If you don't find a clear command or precept there, what would you do then?" Muaz said, in this case he would follow the practice of the Prophet himself or what he had learnt from him. The Prophet continuing, asked again, "What if the situation is such that you find no clear guidance even there?" Muaz replied that he would consult his own conscience and exercise his own judgment. The Prophet approved of this reply and praised him for it. The Prophet was

sure that Muaz had imbibed the principles of Natural Law and Justice, which must be the final court of appeal in the innumerable situations of life. The variety and multiplicity of life refuses to be codified. The final source of judgment therefore must be the Natural Law of Reason and Justice which, according to the Quran, is inscribed in the hearts of those whose consciences have not been distorted and whose reason has not been blurred by personal bias or greed.

With respect to the application of Natural Law to the changed and changing situations of life, two schools of thought have developed in recent Muslim history in a number of Islamic countries that are trying to face new problems and world situations that had no exact parallels in the time of the advent of Islam about fourteen centuries ago or during the formative and dynamic period of Muslim jurisprudence, which covers about three centuries of early Muslim history. For about a century two views of Islamic Law have been struggling against each other for dominance — one standing for the unchangeability of all law and jurisprudence, because not only the principles of Natural Law as enunciated in the Quran or elucidated by the life, teaching and precepts of the Prophet but the elaborate codes about actual and hypothetical cases drawn up by the great early jurists are supposed to be the only correct and authoritative application of the Islamic principles. According to this conservative and orthodox school all new legislation would be invalid unless it could prove its credentials by reference to clearly stated commands or prohibitions in the Quran, or be somehow related to the words or practices of the Prophet, fortifying itself by the authority of a great Imam, who

interpreted Islamic principles in the early centuries. Not only principles or precepts but even rules of conduct are taken to be virtually fixed for all time. Islamic jurisprudence had a religious basis from the very beginning and it will continue to have a religious basis so long as the Muslims believe Islam to be a completely satisfying way of life for all times. In the formative and dynamic period of Muslim jurisprudence when Islam was embraced by a large portion of humanity, and nations with diverse customs and cultures entered the fold of Islam, divergent rulings on small or great issues were given freely and independently by great jurists who were considered equally orthodox, equally wise and equally pious. But when Muslim society ceased to be dynamic, different interpretations and different applications of the fundamental Islamic principles hardened into juristical sects. These sects were not based on differences of belief, but differences of law. Every sect now is supposed to adhere to its own system of law and to consider that system as final even in details. But from the middle of the last century, constant efforts have been made by the liberals to recast large portions of classical jurisprudence. But the liberals are of different grades. There are liberals who want to liberalize legislation, still seeking support from classical jurisprudence, but they seek authorities from all over the classical period, without binding themselves to any one classical or canonical jurist and without adhering completely to any single system of jurisprudence. Turkey, Iran, Egypt and the subcontinent of India produced great reformers in Islam during the latter half of the 19th century. Said Halim Pasha in Turkey, Mufti Muhammad Abduhu in Egypt, Sayyed Ahmad Khan in India were

the pioneers of Muslim renaissance, and Jamaluddin Afghani worked over a large portion of the Muslim world for political emancipation from Western imperialism, which was gradually engulfing the whole Muslim world. All those reformers worked to make Islam dynamic again. All of them were Muslim rationalists believing firmly that the principles of Islam are natural, rational and universal. Sayyed Ahmad Khan, one of the greatest of these liberals, interpreted the whole of Islam according to Natural Law. By his orthodox adversaries he was called a Naturalist. He identified Islam completely with cosmic natural laws and human natural laws, believing all natural laws to be rational. He wanted to judge and reassess all Muslim institutions according to the principles of Natural Law that he found in the Holy Book. He was at the same time also an admirer of many traits in the Western civilization that had overpowered the Muslim world. He was of the opinion that whatever may be the sins of Western imperialism, it surely owes part of its strength to the study of Nature and many Western institutions had succeeded in the social and political spheres because they had conformed much more to Natural Law than the contemporary decadent Muslim states had done. He thought that Western civilization was not entirely materialistic that the West had developed certain social and political institutions which were to a very great extent in consonance with the spirit of Islam. He believed further that Islam as a system of Natural Law was not the monopoly of the Muslims; whichever nation followed universal principles would succeed. In this conviction he was a strict follower of the Quran which had declared that it was wrong for the Jews and Christians to believe that they

are monopolists of salvation. The Quran said that truth or salvation was not a national or credal monopoly. "Whoever leads the life of surrender to God and does good to his fellow beings, he shall not grieve nor shall he have any fear." Mufti Muhammad Abduhu of Egypt also asserted boldly that many a Western institution is more in accord with the spirit of Islam than what one found in contemporary Muslimdom. These reformers had imbibed the spirit of Islam which they identified with Natural Law as the Quran taught in clear and unambiguous terms.

The progressive Turks, who saw their empire fast disintegrating before their eyes, considered a degenerate autocracy in league with fossilized jurisprudence as the main cause of their social stagnation and political impotence. The Kemalist Turks threw overboard the entire system of classical and canonical jurisprudence and declared Turkey a secular state. The Turks had borrowed this concept from the West and they had done so as a wrathful reaction against the forces of an obscurantist and rigid orthodoxy which had retarded all political and social reform in Turkey and which had little of the spirit of Islam left in it. The Muslims have no organized Church or priesthood, so there could be no question in any Muslim country of the separation of the Church from the State. Islam does not recognize the separation of mundane from spiritual life. The so-called worldly life lived according to the principles of Islam becomes spiritual. When the Turks arrived at the conviction that a code developed by the jurists a millenium ago was not identical with the eternal principles of Islam and was outmoded, they declared themselves free in the matter of legislation. This did not make them deviate from what

they considered to be the essential principles of their religion. Some ignoramuses or propagandists in the West began to utter with great exultation and jubilation that the Turks had deserted Islam and adopted the creed of Western secularism. They were greatly mistaken and have been disillusioned now to find that the Turkish nation is still profoundly religious and in spite of their freedom in legislation their faith in Islam has not been shaken at all. This is due to the fact that the essence and core of Islam is a set of natural and universal principles which are so objective and rational that no advance in scientific rationalism or social reformation can ever shake them. Several years ago, I had the opportunity of interrogating for several hours one of the greatest and noblest of progressive revolutionary Turks, Rauf Pasha, who was Premier of Turkey before Kemal established a dictatorship. I asked him about the secularity of the new Turkish Republic. He said that he himself was responsible for this step and this step had to be taken because the pure principles of Islam had been defiled by reactionary self-seeking Mullahs. He stated that this step was taken to purge political life from degenerate clericalism and to reestablish Islam in its pristine purity. Rauf Pasha, the great liberal and one of the makers of modern Turkey sincerely believes that the basic principles of Islam are rational, progressive and based on universal justice. The Turkish state calling itself secular does not cease to be Islamic because the socialistic democracy that the Turks have attempted to establish contains the very essence of Islamic ideals.

Now let me state briefly the state of affairs in the newly carved state of Pakistan, the largest Muslim state in the

world from the point of view of population. Pakistan was created to make it possible for a population of about 70,000,000 Muslims to follow their own way of life and mould it more and more freely according to the tenets of Islam. The world is wondering why Pakistan has not been able to frame a constitution even after the lapse of about four years. I will tell you where the difficulty lies. In the first place we inherited a system of British administration of a semi-colonial type. With all its faults and drawbacks it is still a system and this entire system cannot be wiped out except by a violent revolution which will create more of chaos and destruction and less of reconstruction. The second difficulty is that neither a purely secular nor a theocratic state is in accordance with the spirit of Islam. In Pakistan we are witnessing a struggle between two schools, the rigid followers of old jurisprudence, the worshippers of the letter of the old law and the other section, sincere believers in the fundamentals of Islam, which are identified with universal rational principles. The new state is faced with stupendous problems of reconstruction. At every step the realities of present-day existence demand a free handling of the problem unhampered by some of the past traditions that have lost their validity or utility. The inertia of the inherited political and judicial system is added to the inertia of sacerdotal traditions. A modern progressive state has to be dynamic. The liberals desire to go back to the fundamental universal principles of Islam, the principles of social justice and human welfare, and reconstruct entire life on a broad basis. Then there are those who want an ideal Islamic system to be promulgated at a single stroke, while others want to approach the idea by gradual and

practicable steps. All these divergent trends have to be reconciled, which, in the opinion of some, is not only a difficult but an insoluble problem. Most of the intellectuals belong to the liberal class and they want Muslim society or state to be reconstructed on the broad principles of Natural Law as enunciated by the Quran. If the Muslim liberals of Pakistan can overcome the resistances mentioned above, the constitution and laws of Pakistan will embody the broad universal principles to which enlightened humanity in some other countries is also trying to give a tangible shape. Most Muslims believe that Islam has a mission and that mission consists in overcoming racial and national barriers, demolishing class distinctions, elimination of exploitation and advancing towards universal liberty, universal equality, universal justice. These are the constituents of Natural Law and the values that entire humanity is destined to realize. In God these universal, unchangeable principles originate and towards God they lead mankind. In the words of the Quran: "Inna Lillahi Wa Inna Illahi Rajeun." "To Him we belong and to Him we return."

THE NATURAL LAW IN THE HINDU TRADITION

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THE NATURAL LAW IN THE HINDU TRADITION

IT WAS with considerable diffidence that I accepted the invitation of Dean Clarence Manion to participate in this learned men's symposium on Natural Law, and it is with equal diffidence that I stand before you today. I am not a scholar in any of the aspects of Law, and I do not claim to know more than the bare outlines of either Common Law, Canon Law, Constitutional Law or International Law. Further, I am an indifferent student of philosophy and religion; but having been born in the Hindu fold and brought up in the traditions of its religion and philosophy, I should be forgiven for venturing to display something of that religion and philosophy that I have managed to assimilate or understand. May I be forgiven by this learned assembly if I indulge in some personal history? My father, who was a profound scholar of the Hindu scriptures, made not a totally vain attempt throughout my teen-age to instil into me the greatness and glory of the Hindu tradition and philosophy, having been himself an austere follower of the scriptures. He and millions like him, did not know anything about the modern concepts of law or how laws of man were administered by fellow-man. His contemporaries and several of his ancestors before him never had any occasion to go inside a court of Law. They could hardly differentiate between law as symbolized by the policeman on the street crossings and law administered by the highest tribunals of the supreme court. But their ignorance of man-made law did

not in the least detract from their fundamental knowledge of the highest law — the law of God or the Eternal Law or Natural Law — call it by whatever name. They accepted unquestioningly the authority of THE LAW — GOD-GIVEN LAW — because they were convinced that no power on earth can supersede the divine law. Dr. Thomas Arnold, the famous Headmaster of Rugby, is supposed to have said to his valedictory group of students, "If on leaving school, each one of you consciously strives to practice the Ten Commandments for the rest of your lives, it does not matter if you become ignorant of the principle of Archimedes or the Theorem of Pythagoras." There are millions of Hindus today, and there have been many more millions before them, whose only knowledge of law concerned Natural Law.

To the Hindu, the Universe is based on Law. The planetary system and the solar system, light and darkness, the stars in their firmament obey the Eternal Law. The God of the Universe is represented as a divine dancer personified as Shiva who dances to his own created Music of the Spheres in perfect rhythm. The divine dancer is engaged in a non-stop performance, and should he stop, even for an infinitesimal moment, chaos and annihilation will follow. This God of the Universe may be seen in millions of forms — he is Brahma the Creator, Vishnu the Protector and Shiva the Destroyer. Origin, Existence, Extinction follow according to His will. The Supreme Being does not have to administer the Law, because, HE is the Law. He keeps eternal vigilance and is eternally at work. A great Indian poet of our own times addressed the worshipper seeking the God in temple or tabernacle, church or mosque as follows:

"Leave this chanting and singing and telling of beads! Whom dost thou worship in this lonely dark corner of a temple with doors all shut? Open thine eyes and see thy God is not before thee!

"He is there where the tiller is tilling the hard ground and where the pathmaker is breaking stones. He is with them in sun and in shower, and his garment is covered with dust. Put off thy holy mantle and even like him come down on the dusty soil!

"Deliverance? Where is this deliverance to be found? Our master himself has joyfully taken upon him the bonds of creation; he is bound with us all for ever.

"Come out of thy meditations and leave aside thy flowers and incense! What harm is there if thy clothes become tattered and stained? Meet him and stand by him in toil and in sweat of thy brow."

There is one fundamental difference between Natural Law and all other forms of law. Common Law, Canon Law, Constitutional Law, International Law are all subject to periodical amendments and alterations. Natural Law is eternal and unalterable. A second basic difference is that all other laws of the second group are created, evolved, modified and altered by man; Natural Law is only discovered by man. A third, and most vital difference is that obedience to Natural Law is not enforced by an external agency, while conformity to every other form of law can be brought about by coercion. Great souls whom we call martyrs have refused to be coerced by man-made laws. St. Thomas More and St. Joan spurned coercion and attained beatitude, and in my own country, Gandhi systematically defied the man-made laws of his alien rulers and kept the serenity of his soul undisturbed. On the con-

trary, one will search in vain through the pages of human history for an example of a man who achieved victory by defying Natural Law. Lastly, any form of law that runs contrary to Natural Law may seemingly succeed for a time but it is doomed to fail ultimately. Natural Law has no final written code, no jurisprudence, no jury, no courts, no judges, no precise penalties for offenders, no outward rewards for those who conform to it. Natural Law is promulgated not by legislation, but by teaching. The teachers are those we call seers, sages, prophets, mystics, philosophers, law-givers, saints and sons of God.

Hinduism abounds in such sons of God, many of whom are nameless, ageless, but whose sayings and preachings have been collected through centuries of human endeavor.

Said Lucan:

“Mortal are the things of mortals;
We remain as they decay.
If you doubt this proposition,
Put it just the other way.”

These sons of God were mortals and they lived their day and quit the world. But their spoken words of wisdom have remained imperishable. We do not know the life history of the authors of the Vedas, the Upanishads, the Puranas or the gospel which is the quintessence of Hinduism — the Bhagavad Gita. The names of Vyasa, Valmiki, Vishwamitra, Narada, Nagyavalkya, Sanjaya and innumerable others, are only names and the many stories associated with their lives cannot be verified for authenticity.

Yet in a sense these saints and sages of old are primarily law-givers. They expounded Natural Law through

precepts, examples, parables, fables, epics, theories, logic, lyrics and other innumerable forms of expression. These compositions were handed down from generation to generation by the spoken word, committed to memory, and most of it, being in rhythmic poetry or alliterative prose, was surprisingly easy to memorize, and when the art of writing was perfected they were imprinted on palm leaves by dexterous hands that could wield an inscribing sharp-pointed tool. Thus has been handed down to us, the moderns, the wisdom of old.

The oldest epic of India is the Ramayana, attributed to the sage Valmiki. It contains an exposition of the highest ideals of Hindu culture and civilization. It is the story of the ideal man, the god-head that impersonated himself in mortal form to demonstrate to mankind the good life and perfect conduct. The epic begins with an enquiry by one saint of another saint. Narada asks Valmiki: "Who is the happy warrior, who is he that every man in arms should wish to be?" "In this world today, who is the meritorious and heroic man, well-versed in his duties, true in speech and firm in his vows? Who is the man endowed with character, who is kind by nature, wise, capable and prepossessing? Who is he that has mastery over himself and conquers the passions; who is he that is devoid of envy, whom when aroused in righteous anger, do even the gods fear? This I do wish to hear, my eagerness is indeed great."

Valmiki answers thus:

"Many and rare are the virtues enumerated by you: O Sage, I shall speak with knowledge; hear of the man endowed with these. Descended of the line of Ikshvakus, he is known to men as Rama; self-controlled he is, greatly heroic, possessed of brilliance, firmness, restraint. Wise

and just, skilled in speech, endowed with riches, the destroyer of foes, knower of right, true to his promise, devoted to the welfare of his subjects. Famous, rich in knowledge, purity, attractiveness, and intent on the protection of the suppliant, the protector of all life. The upholder of righteousness, the resort of good men at all times as the ocean is of the rivers, noble, impartial and always the one comely person. He is besides endowed with all meritorious qualities, in depth like the ocean and in firmness like the Himalayas. Like Vishnu in valour, pleasant of countenance like the moon, equal in bounty to the God of Wealth, and in truthfulness another Dharma."

This word "Dharma" is in a sense the keynote to the understanding of the Hindu ideal of life. It is a word that is incapable of precise translation into another language. "Dharma" has been called "duty" by some, by others "righteousness," by still others "the performance of virtues." In this symposium, "Dharma" may be called no better than Natural Law. All creation, animate and inanimate, has each its own individual "Dharma" to practice. It is the God-given law of one's own being and no transgression from "Dharma" or Natural Law is permissible without serious consequences to the transgressor.

Another unique word in Hindu thought is the word "Karma." The theory of "Karma" recognizes the rule of law not only in outward nature but also in the world of mind and morals. Every moment of existence we are not only 'being' but 'becoming.' The principle of "Karma" is not a mechanical one, but a spiritual necessity. It is the embodiment of the will and mind of God. God is called "Karmadhyasha" or the supervisor of our actions.

The day of judgment is not in some remote future, but here and now. We carry with us every bit of our past. No man can escape from the consequences of his own thoughts, words and deeds either here or hereafter. There is, no doubt, room for repentance and forgiveness, but forgiveness is not a mitigation of God's justice, but only an expression of it. "Dharma" is right action, and "Karma" is all kinds of action. If you deviate from "Dharma" you take the consequences of your "Karma." The theory of "Karma" has been mis-interpreted by some as meaning a form of fatality from which there is no escape. "Karma" encourages the sinner that it is never too late to mend. It does not shut the gates of hope against despair, guilt and suffering. It produces in the onlooker a sense of great compassion towards the sufferings of others. Every man must carry his cross, and millions of mortals who pass through sorrows are atoning for their "Karma." Suffering is the only way in which one can expiate for one's misdeeds.

Goethe said:

"He who never ate his bread in sorrow,
Who never waked his midnight hours,
Weeping and waiting for the morrow,
He knows ye not, o ye Heavenly powers."

"Dharma" is right action. It is formed from the root *dhr* "to hold" which means that which holds a thing and remains its being. Every form of life has its "Dharma," which is the law of its being. It is conformity with the truth of things. The living philosopher of India, Professor Radhakrishnan, has expounded the principle of "Dharma" in day to day life and its relation to human actions:—

"Desires constitute the springs of human action. The life of man centres in certain basic cravings, each distinct from the other in its object, and each stimulating men to a particular mode of activity in order to satisfy it. If the several desires were independent of one another and never crossed or modified one another, then their different expressions would be separate and uncoordinated. Family life will have little to do with economic pursuits. Industrial relations will be ethically colourless. Religious activities may be indifferent to the secular sides of life. But man is a whole, and so, all his activities have an overarching unity. Each individual has in him the sex and the parental instincts, love of power and wealth, desire for the common good and a hunger for communion with the Unseen. These different activities react upon and modify one another. They function in interdependence in man's life. If life is one, then there is one master science of life which recognizes the four supreme ends of Dharma or righteousness, Artha or wealth, Karma or artistic and cultural life, and Moksha or spiritual freedom. The Hindu code of practice links up the realm of desires with the perspective of the eternal. It binds together the kingdom of earth and Heaven."

To the Hindu, life has a divine purpose, and the supreme goal is "Moksha" or self-realization or self emancipation. The meanest of us have at least once questioned ourselves why we are and whither are we going. The poet summed up the life of man:—

"What is the course of life
Of mortal men on earth?
Most men eddy about
Here and there—eat and drink

Chatter and love and hate,
Gather and squander, are raised
Aloft, are hurled in the dust,
Striving blindly, achieving
Nothing: and then they die—
Perish;—and no one asks
Who or what they have been,
More than he asks what waves,
In the moonlit solitudes mild
Of the midmost Ocean, have swelled,
Foamed for a moment and gone.”

But life is meaningless if it is to begin and end as waves on the ocean in interminable repetition. The highest wisdom according to Plato is knowing one's self. Self-realization is the ultimate goal of life according to the Hindu. In the highest stages of spiritual evolution not attained by any but the sages and the rishis of old, man has been able to say “God is within me” or “I am God”. The universality of mystic experience is common to all religions. A western philosopher has said, “The mystics of the world, whether Hindu, Christian or Muslim belong to the same brotherhood and have striking family likenesses. When the love of God is reached, divergencies become impossible, for the soul has passed beyond the manifold and is immersed in the one Reality. St. Augustine and Sankara, St. Paul and Plotinus, are difficult to distinguish in their mystic conception of the Divine. They are not only convinced in themselves but have experienced the inexhaustibility of the nature of God and of the supremacy of Divine Law. Boehme says, “Consider the birds in our forests, they praise God each in his own way in diverse tones and fashions. Think you God is vexed by this diversity and desires

to silence discordant voices? All the forms of being are dear to the Infinite Being himself."

This basic truth underlies Hindu thought and thus Hindus developed a comprehensive charity instead of a fanatic faith and an inflexible dogma. It accepted all believers in God, brought them into one fold and justified them all. The immortality of the soul is applicable to the followers of all religions and the law of Nature pertaining to the soul of man is of universal acceptance. Natural Law, according to the Hindu, is identical in all faiths and is common to all mankind.

In one of the principal Upanishads, known as the Brihadaranyaka, Yagyavalkya the sage tell his wife: "My beloved Maitreyi, I am resolved to renounce the world and begin the life of renunciation. I wish therefore to divide my property between you and my other wife Katyayani." Maitreyi asks: "My lord, if this whole earth belonged to me with all its wealth, should I through its possession attain immortality?" To this the saint answers: "No, your life would be like that of the rich. None can possibly hope to attain immortality through wealth." So Maitreyi says: "Then what need have I of wealth? Please my lord, tell me what you know about the way of Immortality." Then follows a profound discourse on self-realization:

"Dear to me have you always been, Maitreyi, and now you ask to learn of that truth which is nearest to my heart. Come sit by me, I will explain it to you. Meditate on what I say. As when the drum is beaten, its various particular notes are not heard apart from the whole, but in the total sound all its notes are heard, as when the conch-shell is blown, its various particular notes are not heard apart

from the whole, but in the total sound all its notes are heard—so through knowledge of Self, Pure Intelligence, all things and beings are known. There is no existence apart from the Self. As smoke and sparks arise from a lighted fire, even so, Maitreyi, have been breathed forth from the Eternal all knowledge and all wisdom. The Vedas are the breath of the Eternal. As a lump of salt when thrown into water melts away and the lump cannot be taken out, but wherever we taste the water, it is salty, even so, O Maitreyi, the individual self, dissolved, is the eternal—pure consciousness, infinite and transcendent. Where there is consciousness of the self, individuality is no more.”

Let me now turn your attention to that book of divine Revelation—The Bhagavad Gita—which I called the quintessence of Hinduism. The Gita is the foremost of Hindu scriptures, read and recited by millions of Hindus. It has been translated into many languages by hundreds of scholars, both ancient and modern. The Gita is a gospel addressed, not to the theologian or hermit, but to the common man, to the ordinary citizen living in society and who is seeking to know his duties in everyday life.

It was in the Epic age, by which is meant the age of the Ramayana and Mahabharata, that the Bhagavad Gita came into existence. No researcher has succeeded in ascertaining its authorship or its date. It might well have been as recent as the second century B. C. according to some, and as old as five thousand years according to others. In the Epic age the Hindu scheme of life was expressed by the formula “Dharmarthakamamoksha” — Dharma (duty), Artha (wealth), Kama (desire), Moksha (liberation). The first three constitute the path to Pravritti

(active life) and have to be gained by man living in society. He has to discharge his duties as a member of his family and as a citizen; he has to acquire wealth, gratify his normal desires, practice virtue and seek salvation. The final stage is one for which the three earlier ones are a preparation. As the first three are known as "Pravritti," the last one is its opposite or Nivritti—or complete surrender—Moksha (liberation). Thus the Hindu conception of life does no violence either to the flesh or to the spirit. Manu the first Hindu writer of laws took into account both Pravritti and Nivritti, both active life and liberation from human bondage, in prescribing his legal code.

In accordance with the scheme of life thus expounded, domestic virtues were glorified and a philosophy of action was prescribed for every man. In the epics, ideal types of character representing all stages of "Dharmarthakamamoksha" were personified in grandeur and set as examples. The ideal father, the devoted husband, the loyal brother, the disciplined student, the perfect wife, the dependable friend, the righteous citizen—all find illustrations among the characters of the Epics. Thus the abstractions of the Upanishads are incarnated in types as well as individuals. In the Ramayana the evolution of the individual is sketched in brief pithy verses.

In one of the sagas called Raghuvamsa, a king is described as having conquered all the world and all its wealth, and finally it dawned on him that wealth is meant not for acquisition but for distribution. The joy of renouncing one's wealth is described as being a million times more exhilarating than the pleasures of acquisition.

To return to the Bhagavad Gita—the Lord of the Uni-

verse, the Isvara as described in it, becomes a personal God who upholds the order of the Universe and responds at all times to his devotees. He assures us that in times of universal decadence He appears as an Avatar or incarnation to protect righteousness and root out unrighteousness.

The Bhagavad Gita is an episode in the didactic epic known as the Mahabharata. The Pandavas and the Kauravas—two rival groups of warriors are arrayed against each other on the battlefield of Kurukshetra. Arjuna, one of the five Pandava brothers, sees in front of him his kinsmen, friends and other citizens whom he has to kill, and he is overcome with grief at the very thought of his impending actions. He drops his bow and arrows and turns to his charioteer, who is no less than the Lord Krishna himself and tells him, "O Krishna, draw up my chariot between the two armies; and I will look on these men with whom I must contend." Then saw Arjuna standing there, fathers, grandfathers, teachers, uncles, brothers, sons, grandsons and comrades. He was overcome with great compassion and said these words in sadness: "When I see these men drawn up and eager for fight, O Krishna, my limbs give way, my mouth is parched, my body trembles, my hair stands on end; my bow slips from my hand and my skin burns all over. I am not able to stand, my mind is reeling. I see adverse omens and I do not expect any good in slaying my kinsmen. I desire no victory, O Krishna, nor dominion, nor pleasures. Of what use is the kingdom to me, O Krishna, or enjoyment of pleasure or even life itself?"

At this dramatic moment begins a dialogue between Krishna and Arjuna, between the charioteer and the war-

rior, between Narayana (God) and Nara (Man). The theme of the dialogue is knowledge as applied to action. Arjuna is the hero of the Epic and the chosen instrument of divine justice. At the critical moment when he has to be the instrument of divine justice in wiping out evil and unrighteousness, he falters and hesitates to obey the stern call of duty. The message of the Gita is an epitome of the Upanishads. "He from whom all beings proceed and by whom all this is pervaded—by worshipping Him throughout the performance of his own duty, does man attain perfection." The emphasis is on the performance of one's duty as the only means to spiritual vision and inner happiness. The Gita compares spiritual joy to a hill-top of serene contemplation, but the pilgrim can reach the top only through an active life of service beginning at the base. Throughout the Gita there is frequent use of the word "Yoga" which has been variously interpreted and often misinterpreted. Yoga in simple words means "spiritual life." Yoga is none other than fellowship with God through service, devotion and contemplation. In the 700 verses of the Gita, the word yoga is frequently used. The gospel is called "Yogasastra." The God of the Gita is known as "Yogeshwara" and the perfect man it describes is called a "Yogin."

The Gita is addressed essentially to the layman, and man in quest of the Divine Law has followed rituals, performed sacrifices, adopted popular forms of worship, undertaken severe penances and sought asceticism. The divine law-giver takes each one by the hand and leads him gently towards understanding all these ways. Rituals may be performed but they should serve to purify the heart. Sacrifices should be of the spirit and not merely of physi-

cal objects. Popular deities may be worshipped but the worshipper should know that they are only partial aids to the understanding of the transcendental Being. Spiritual concentration should not demand torture of the body. All these different approaches are only means to an end which is fellowship with God. "Yagya" or sacrifice cannot be obtained through mere sacrifice of material objects. A life of self-control is a sacrifice; a life of disinterested scholarship is also a sacrifice; a life of action or contemplation may be turned into a sacrifice. The ideal yogin does not have to cease to be a man of the world. He becomes a man of God. To the man of action who conducts himself according to the spirit, there is no such thing as failure in life. The yogin does not have to aspire towards reaching heaven; he creates his own heaven. The philosophy of detachment from pleasures and pains of life is only the negative side of the yogin's outlook, the positive side is attachment to God. Equanimity before the pairs of opposites—pleasure and pain, heat and cold, success and failure, gain and loss, joy and sorrow may make a stoic philosopher capable of looking at life as being all vanity, but the yogin of the Gita attains something greater—illumination by Divine Grace.

Again, the Gita is not a mere gospel of humanitarian work or social service. Service to mankind cannot take the place of God. The yogin must first be a servant of God before he becomes a servant of his fellow-man. At the same time mere renunciation of the world will not make a man of God. So the central theme of the Gita is that we should learn to live in the world without becoming worldly as a lotus leaf lives in the water without becoming wet.

Each of the eighteen chapters of the Gita is called "Yo-

ga-Sastra" which means the Gospel of Spiritual Life. According to this Gospel, real happiness is to be gained through consciousness of God through service, love and knowledge. A modern interpreter has summed up the Natural Law of the Gita thus: "When a man eradicates his desires based on the delusive notion of a separate self and trains his heart to flow out in love and sympathy towards all beings, and looks upon the faithful discharge of his desires as the highest form of the worship of God, he treads the path of light which leads him to his true home. On the other hand, if he cherishes his desires and hugs the delusion that he is a separate individual with interests of his own, always in opposition to those of others, and looks upon his duties as only means of self-assertion, and self-aggrandisement, he treads the path of darkness and wanders aimlessly in the world of change and mutability."

In India the problems of religion and philosophy have occupied for centuries a vital place in national life. Religious teachers of all times have attempted to solve the riddle of existence. The greatness of India's thinkers is that the religious teachers struggled persistently, often successfully, to discover fundamental truths which enlarge the mind and add beauty to life.

At no time in the history of man is a rediscovery and re-statement of Natural Law more urgent than it is today. Schopenhauer in one of his bitter moments of disillusion wrote: "The wise men of all ages have always said the same things; and the fools of all ages have always done the same things—that is, the opposite of what the wise men have said—and we shall perhaps leave this world just as stupid and as bad as we found it when we came here." There is both despair and defeatism in such a pronounce-

ment. Man cannot exist with spiritual gloom surrounding him. There is, therefore, an imperative need for a re-emphasis of the Hindu ideal of "Dharmarthakamamoksha" in a world torn by tyranny, class war, intolerance, regimentation, greed and power-consciousness. In the ultimate reality, the individual soul is greater than all the groups, organizations, states and communities of men. If the laws of men corrupt the soul of man besides dominating his body, man has the righteous duty to rebel against such laws and reassert the natural laws of his Maker. The story of man is filled with many illustrious examples of great souls who lived in accordance with the principles of Natural Law. The history of Hinduism is no exception to this. In our own times the lives of the great Hindu thinkers like Raja Ram Mohan Roy, Swami Dayanand Saraswati, Swami Ram Thirtha, Swami Vivekananda, Mrs. Annie Besant of the Theosophical Society, Sri Arambindo Gosh, Rabindranath Tagore and lastly, the greatest of them all, Mahatma Gandhi, are immortal examples of persons who preached and practiced Natural Law.

It may not be inappropriate to say here that what is generally called "Gandhism" in India was nothing more than adherence to Natural Law in every respect. Gandhi campaigned all his life not only against the injustices perpetrated by alien rule over his people, but he carried on a ceaseless war against all forms of man's inhumanity to man. He attacked the institution of untouchability which had crept into Hinduism through centuries of false practices and he named the untouchable, "Harijan." Here is what he said: "I am delighted to adopt that word which is sanctified by such a great Saint, but it has for me a deeper meaning than you may imagine. The 'untouch-

able' to me is, compared to us, really a 'Harijan'—a man of God and we are 'Durjan,' men of evil. For whilst the untouchable has toiled and worked and dirtied his hands so that we may live in comfort and cleanliness, we have delighted in suppressing him."

If today 40 million so called untouchables of yesterday could talk with dignity with their heads erect and obtain equal rights and opportunities with their fellowmen in their country, it is entirely due to this one man's untiring devotion to Natural Law—his adherence to the dignity of the soul of man.

Gandhi propounded two simple principles of conduct for every man of God—Truth and Non-violence—"Satya" and "Ahimsa." He wrote in his weekly paper, *Young India*: "My national service is part of my training for freeing my soul from the bondage of flesh; I have no desire for the perishable Kingdom of earth. I am striving for the Kingdom of Heaven, which is Moksha. To attain my end, it is not necessary for me to seek the shelter of the cave. I carry one about me if I would but know it. My patriotism is for me a stage in my journey to the eternal land of freedom and peace. Thus it will be seen that for me there are no politics devoid of religion. Politics bereft of religion are a death trap, because they kill the soul."

In another memorable passage on the theme of Ahimsa: "Non-violence is a perfect state. It is a goal towards which all mankind moves naturally though unconsciously. Man does not become divine when he personifies innocence in himself. Only then does he become truly man. In our present state we are partly men and partly beasts, and in our ignorance and even arrogance say that we truly fulfill the purpose of our species, when we deliver blow for

blow and develop the measure of anger required for the purpose. We pretend to believe that retaliation is the law of our being, whereas in every scripture we find that retaliation is nowhere obligatory but only permissible. It is restraint that is obligatory. Retaliation is indulgence requiring elaborate regulating. Restraint is the law of our being. For highest perfection is unattainable without highest restraint. Suffering is thus the badge of the human tribe."

I have digressed somewhat on the life and teachings of Mahatma Gandhi with a view to illustrating that Hinduism has continued to be a dynamic force through the centuries, and has survived as one of the greatest schools of thought because of its highest moral laws and ethical codes. Gandhi would have been inconceivable except through Hinduism.

To the millions of my countrymen today the three lines of the immemorial Upanishads serve yet as a living guide to all their actions and bring solace to all their thoughts. They are constantly repeated by the wise and the ignorant, the educated and the illiterate:—

"Lead me from falsehood unto Truth!
Lead me from Evil unto the Good!
Lead me from Death unto Immortality!"

The poet of our times, Rabindranath Tagore, only paraphrases this simple thought in his prayerful song as follows:

"Life of my life, I shall ever try to
keep my body pure, knowing that thy
living touch is upon all my limbs.

"I shall ever try to keep all untruths
out from my thoughts, knowing
that thou art that truth which has
kindled the light of reason in my mind.

"I shall ever try to drive all evils
away from my heart and keep my love in
flower, knowing that thou hast thy seat
in the inmost shrine of my heart.

"And it shall be my endeavor to reveal
thee in my actions, knowing it is
thy power gives me strength to act."

THE NATURAL LAW IN THE BUDDHIST TRADITION

(The Buddhist View of the World)

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THE NATURAL LAW IN THE BUDDHIST TRADITION

IN Japan soon after the war, I chanced to speak with one of the judges of the War Crimes Tribunal then in session in Toyko. He asked me about the Buddhist view regarding the ultimate authority of ethical laws. When I asked him what he meant by "authority," he replied that in Christianity ethical laws are considered as issuing from God and therefore the violators of morality are sinners against God. He further stated that if we did not derive our ethical values from God, they would have no authority, no compelling power over human affairs.

This argument struck me as rather strange, for I had thought moral laws were just as binding even when we regarded them as human-made. Inasmuch as our human society cannot exist without some system of regulations, moral or political, economic or juridical, they are all to be observed by the individual members who compose such a community. The question is not whether such regulations are human-made or God-made. As long as they are laws they ought to be binding on us, and we ought not to think of going against them in any way. For if we did, that would surely endanger the very existence of the community. Whatever we may argue about politics or economics, the moral laws being more fundamental, we cannot disregard them and live at peace with our neighbors. If we want to live at all, we have to observe them by all means.

The ultimate source of moral values is in human nature itself.

Being a Christian, my judge-friend was not convinced by my presentation. But this talk made me think anew of the Buddhist point of view in regard to morality and especially of the Buddhist view of the world generally.

In Christianity there are the Ten Commandments as given by God, while in Buddhism the five or ten or more precepts (*'sila*) were given by Buddha to his followers as principles of conduct. And they observe them not necessarily because they are Buddha's injunctions but because they have accepted them out of their free will, firmly believing that they are conducive to the general welfare of humanity as well as to the preservation of their human dignity. No external authority drives them to the moral course of life. It is their own moral judgment that makes them accept the Precepts and the Buddhist community which they have chosen to join because of their spiritual significance.

As regards the first moral injunction "not to kill,"—this is observed by everybody belonging to any civilized community. One who violates it is not only legally punished as a civil criminal, but is also morally condemned as inhumanly-minded. The Christian would go further and pronounce this man as sinning against God, as a violator of the divine commandment. To the Buddhist mind the murderous deed is not connected with the authority of any outside agent who commands us to do this or that, or not to do this or that. Man has a certain innate feeling, according to Buddhism, which makes him refrain from committing deeds of violence. The innate feeling is rooted in

human nature equally shared by all sentient beings who live in group-life.

In the *Dhammapada* (verses 129 and 139) we read:

“All shrink from violence,
 All fear death.
 Putting oneself in another’s position,
 One should neither kill nor cause to kill.
 All shrink from violence,
 To all life is dear.
 Putting oneself in another’s position,
 One should neither kill nor cause to kill.”

This is an appeal to the fellow-feeling natural to all humanity. Buddhism does not think it necessary to trace this feeling to an external source.

In the world of sentient beings other than human, that is, in the animal and the vegetable kingdom, not to mention the physical world, deeds of mutual destruction go on without calling out any sense of compassion among those actually concerned. It is only with us humans that this mutual affectability takes place because we have become conscious of the common ground out of which we rise. And this common ground, we notice, extends not only among human beings themselves, but beyond that, even into the field of non-sentient beings. We often hesitate to destroy animals or insects, even poisonous ones, as well as plants. Buddhists would even offer pious prayers for the spiritual welfare, whatever that may mean, of those destroyed, and sometimes perform some special religious rituals for slaughtered live-stock, for weeded-out morning glories, and for those human beings who had consented

to have their bodies submitted to medical studies. This human consciousness of the common ground underlying all beings who are constituent units of the *Dharmadhātu*¹ is really the basis of our moral values.

It is this human consciousness that makes the author of the *Dhammapada* (v. 5) declare:

“Hatreds never cease by hatred in this world.
By love² alone they cease.
This is an eternal law.”

This eternal law grows out of the eternal ground where we all stand. Indeed, we can stand nowhere else. If we did come from somewhere else, there would be no such laws that could be called eternal.

It is also our consciousness of this eternal ground that establishes the inevitableness of *karmic* relationships:

“Not in the sky, nor in mid-ocean,
Nor in entering a mountain cave,
Is found that place on earth,
Where abiding one may escape from the
consequences of an evil deed.”³

¹ This Sanskrit term may be taken as meaning the universe generally, but in some Buddhist *sūtras* it means a world revealed to the enlightened minds such as those of the Bodhisattvas. It is not outside the world in which we common mortals find ourselves to be living, nor is it one superimposed upon ours. It is no other than this world of ours, but one generally hidden to those whose eyes do not penetrate beyond the world of sense-intellect. The *Dharmadhātu* (*hokkai* in Japanese and *fa-chieh* in Chinese) is in one sense this material world and at the same time the spiritual world. This will become clearer as we go on.

² “Hatred” is *vera* in Pali and “love,” *avera*, that is “no-hatred.” *Vera* sometimes is better rendered “enmity” or “hostility” and *avera* “friendliness” or “kindness.”

³ *The Dhammapada*, 127.

Not only the consequences of an evil deed but also those of a good deed follow us wherever we may be.

Deeds are bad when they go against the general welfare of the community. By this it is meant that bad deeds are always ego-centered; they grow out of selfishness, they tend to sacrifice the general welfare to the interest of the individual. Good deeds, on the other hand, grow straight out of the common good and go back to it. That is to say, the general stock of goodness increases that much by each individual deed of goodness. Buddhists are ever reminded of cutting asunder the bondage of birth-and-death, for this bondage is that which separates one individual from another, making him imagine that an individual as such is everything. He thus altogether forgets that the individual is an individual because of the ground on which he stands and that when he is detached from this ground he ceases really to be an individual and turns into a non-entity and to this non-entity, his misguided way of thinking makes him cling with all his might as if it were the last reality. He is now a constant victim of greed, anger, and folly—the three deadly poisons affecting the human mind. Such a one would never keep the ground in good condition and on such the ground never fails to avenge itself. But this avenging is really his own doing. As far as the ground itself is concerned, as the *Dhammapada* announces (v. 223), it goes on “conquering anger by no-anger, evil by good, the greedy by giving, liars by truth.” For this is the way the ground works out its laws of *karmic* relationship. We must realize, however, that evil ever threatens to cloud the good, and against this we must be on constant watch.

II

The question now is: What is this ground from which we all rise and which operates its own laws with no outside interference?

Buddhism has no God corresponding to the Biblical Creator of the world. According to Buddhists, the world has never been created by any outside agent. It has always been here in all its multitudinosity; it has no beginning, no ending. It is self-operative and self-regulating. The world is its own originator, preserver, and destroyer, if these can be predicated of it.

According to the *Dhammapada* (v. 1):

“Mind precedes all, mind is leader, and all is mind-made.”

“To precede” may suggest time-sequence, but in this case there is no idea of priority in time. “To precede” here simply means “rooted in,” that is to say, all things in existence are rooted in the mind (*manas*).⁴ They follow the Mind as it moves on; they are all formed in the Mind. We must, however, remember that Buddhism does not postulate the Mind as something in existence beside or beyond or within the plurality of things as we see them before us.

⁴ *Manas* and *citta* are synonyms and interchangeable in many cases. Earlier Buddhists do not seem to have made a clear distinction between the two terms. Generally speaking, *manas* is the principle of discrimination whereas *citta* is synthetic and represents an integrating principle. In the Yogacara system, *manas* is placed between the *ālaya-vijñāna* and the other six *vijñānas*. The *ālaya* is a reservoir where all experiences are preserved in the form of seeds, which do not germinate and grow up to full-sized actualities until *manas* reflects on them and projects them through the six *vijñānas*. *Manas* is thus the most significantly active effect-producing agent in the system of the *vijñānas* as held by this psychological school. *Citta* is sometimes identified with the *ālaya*, but in fact *citta* includes both the *ālaya* and *manas* and is used in the later Manayana texts more metaphysically than psychologically. When *citta* has a metaphysical sense, the capitalized Mind is used for it.

The Mind is intuited as identical with these. Buddhism is neither Pantheism nor Transcendentalism.

When the Mind moves, there is the functioning of the law:

“If with an impure mind a man speaks or acts,
Then pain follows him even as the wheel
follows the hoof of the ox.
If with a pure mind a man speaks or acts,
Then happiness follows him even as the shadow
that never leaves him.”

Dhammapada, 1, 2.

The Mind moves! No human thought can fathom the reason why. We simply see it move, and the movement translates itself into infinite multiplicities of relative minds, each one of which acts freely and yet in conformity with laws called by Buddhists *karmic* relationship. One such law is that good deeds increase happiness cosmic as well as individual.

When the Mind is seen as particularized we have the *Dharmadhātu*, which we may regard as corresponding to what Christians call creation. The *Dharmadhātu* is the Mind's creation. The Mind is the *Dharmadhātu*, and the *Dharmadhātu* is the Mind. They are one and the same reality, distinguished only from the human point of view—one as its particularized aspect and the other in its state of self-identity. In one⁵ of the most important and

⁵ The *sutra* is known in Japanese as *Kegon-gyo*, *Hua-yen* in Chinese, and in Sanskrit as either the *Avatamsaka* or *Gandavyūha*. This is in fact a collection of *sutras*, of which there are three Chinese translations. They have never been translated into any of the European languages, except the one treating of the “Ten Stages of Boḍhisattvahood.” But this will not be intelligible to most readers unless they are well acquainted with the background of the thought here expressed in a most elaborate and complicated style.

thought-provoking *sutras* belonging to the Mahayana school, we have this: "Buddha, Mind, and all beings are one." All beings are the constituent elements of the *Dharmadhātu*.

In the expression *Dharmadhātu*, especially as it is used by the later Buddhists, it is very difficult to find a good English term for *dharma*. *Dhatu* may be rendered "realm" or "world," whatever its original meaning might have been. *Dharma* generally means "norm," "principle," "teaching," "an object," "reality," "an idea," "a concept," etc. *Dharma* of *dharmadhātu* is a "particularized object," and the *Dharmadhātu* will mean "the realm of individualized objects," that is, the world or universe as we generally understand it with all its particularizations.

On the other hand, when *dharma* is understood in the sense of ultimate reality, the *Dharmadhātu* will mean a ground or field where reality reveals itself infinitely differentiated. But Reality is not to be considered hiding somewhere outside or inside the ground or field. Buddhists in their interpretation of Reality are quite explicitly and unmistakably against entertaining a monistic or dualistic or pantheistic or pluralistic view of existence.

Fa-tsang, or Hozo in Japanese, who was one of the greatest thinkers in the history of Chinese Buddhism, indeed of Chinese thought, characterizes *Dharma* when it is used in the sense of Reality or the Absolute in the following words:⁶

Dharma (*fa* in Chinese) is empty like space, has nothing that can limit it, and is altogether beyond

⁶ In his Commentary on the *Avatamsaka Sutra* (fascicle 1).

the sense. It is a great ocean of transcendental wisdom (*prajñā*). None can sound its depths, as it is not to be subsumed in any categories of thought. The mystery unfathomable—how can names and words define its limits? It is unqualified simplicity—how can one reach its source by looking at appearance? It, however, subjects itself to conditions in every possible way. Making itself manifest in forms and words, it fills the *Dharmadhātu*.

While differentiating itself into subject and object, they (subject and object) are of one taste; no trace is visible between seer and the seen; absolute aloneness prevails. While substance and functions are distinguishable, they refuse limitations and are inter-fused one with another in a wonderful way. There are no images (or individual forms) to take hold of, and yet they are revealed as when the sun rises on the Valley of Yang. There are no words to which one can listen, and yet they are heard roaring as when the huge waves dash themselves against the towering ridges. . . .

The *Dharmadhātu* may thus be understood by human intelligence as manifesting itself in two aspects as the world of Reality and as a world of individual realities. Buddhism, however, being a religion, is not particularly interested in a philosophic or scientific interpretation of the world. "Being a religion" means that Buddhism is more concerned with enlightening human beings as regards their situation, their nature, their destiny, their significance. For this reason, Buddhist thought naturally turns toward a personal and not an impersonal interpretation of the *Dharmadhātu*. The *Dharmadhātu* then is for Buddhists not only one living Buddha, called Vairo-

cana⁷ Buddha, but is the habitat for innumerable Buddhas and Bodhisattvas.

III

The relationship between Vairocana Buddha and other Buddhas innumerable beyond human measurement is nowhere definitely given in any *sutras*. A summary survey shows that there is nothing definite about it, and that when any priority or superiority is given some one, for one reason or another, one of them will turn up as a kind of leader and others will all come to help him in his work. But as is natural with us human beings in this world of patience (*sahāloka*), Sākyamuni Buddha plays a predominant role in most of the Buddhist *sutras*, especially as one who gives us all the information concerning other Buddhas and Bodhisattvas in other quarters of the universe. The names of those other Buddhas and Bodhisattvas are not given except in some specified cases. The *sutras* generally indiscriminately refer to "all the Buddhas" and "all the Bodhisattvas" coming to join the earthly assemblage under the leadership of Sākyamuni Buddha. But this Sākyamuni Buddha in the Mahayana *sutras* is not a historical Buddha as is the one in the earlier schools of Buddhism; he is beyond our human way of computation, logical or otherwise.

To give an example, I cull passages from the *Avatamsaka Sutra*, where a Buddha is characterized in the following fashion, and no doubt Sākyamuni Buddha of the Mahayana shares this qualification. In the chapter "On the Unthinkabilities of Buddhahood" we have this:

⁷ *Vairocana* means "the great shining one." *C* is to be pronounced like *ch* in *church*.

The *Dharmadhātu* is inhabited by Buddhas of these characteristics:

- (1) All the Buddhas here are endowed with physical bodies of purity altogether surpassing anything of this world (*lokadhatu*);
- (2) Their eyesight which knows no obstruction whatever, is beyond all measurement, as it sees into all *dharma*s in their aspect of purity and oneness;
- (3) The hearing power of all the Buddhas, which knows no obstruction whatever, is beyond all measurement, as it discriminates every voice uttered by all beings;
- (4) The olfactory sense of all the Buddhas, which enters into all the immeasurabilities of the *Dharmadhātu*, is of the utmost purity, and being in possession of all the wonderful powers of Buddhahood, reaches the other side of the stream of birth-and-death;
- (5) The tongue of all the Buddhas, broad and long, is beyond all measurements, and the most exquisite voices that come out of it reverberate over the entire *Dharmadhātu*;
- (6) The body of all the Buddhas moves in such a way altogether incomprehensible, as the Tathagata-body reveals itself to all beings in accordance with their aspirations;
- (7) The mind-power of all the Buddhas functions beyond all the measurabilities of the *Dharmadhātu* and is not hindered in any way by their time-limitations, always retaining the purity and indestructibility of the *Dharmakāya*;
- (8) The teachings given out by all the Buddhas are conducive to an unobstructed emancipation beyond

all calculation and reveal all the wonderful inexhaustible powers;

(9) All the Buddhas establish in full array their Buddha-countries all over the worlds in an incomprehensible manner in response to all beings;

(10) All the Buddhas have fulfilled in immeasurable and incalculable ways all the Bodhisattva-works, all the vows of the most excellent character, all the wonderful powers of self-mastery, and are enlightened in all the right doctrines given by all the Buddhas.

The *Dharmadhātu* is the field where all these incomprehensible wonders are performed by all the Buddhas. And these Buddhas are further recorded to be able to accomplish all the following ten "unthinkables:"

(1) As they sit cross-legged in meditation, they are seen to be filling up all the worlds in the ten quarters;

(2) When they utter one word it is seen that this elucidates all the teachings of the Buddha;

(3) As one beam of light emanates from them, it is seen as illuminating all the worlds;

(4) Their one body is seen as revealing itself in infinitudes of bodies;

(5) While they have not moved from the seat they manifest themselves all over the worlds;

(6) As they make one decision, this is seen as being carried through all their works without the least impediment;

(7) They fill in one thought-instant⁸ all the worlds

⁸ This is for the Sanskrit *eka-citta-kṣana*, but it is suggested that "one consciousness-instant" might be better.

to their utmost ends;

(9) They make visible in one thought-instant all the Buddhas of the past, of the future, and of the present;

(10) While actively engaged in teaching all beings, the Buddhas are never seen leaving their *samādhi* of eternal tranquillity and non-dualism.

There is no end to these tales of wonders the Buddha performs in the *Dharmadhātu*; the *Avatamsaka* is filled with them. But we must not forget that the Buddha is not a miracle-worker just for the sake of miracles. He always has in mind the chief objective of his career in the world, which is to help all beings attain the supreme enlightenment and actually see the *Dharmadhātu* in its true perspective. The Mahayana *sutras* are never tired of emphasizing this principle of work cherished by all the Buddhas in their inmost heart. The *sutras* tell us that it is the event of the greatest possible significance to all beings that a Buddha come among us. His infinitely compassionate heart is ever with us, and out of it he proposes to himself vows of prayers (*pranidhāna*) by which he will lead every being, non-sentient as well as sentient, to cross the stream of birth-and-death.

Let me add another wonder the Buddha executes. But before doing this, I must make the readers acquainted with a little of Buddhist terminology, especially of the *Avatamsaka* (*Kegon*). The *sutra* makes so much reference to the hair (*roma* or *romakūpa*), or hair-tip, or hair-hole which is a pore of the skin. This represents the smallest part of the human body or Buddha-body, an atom or a monad or a *paramānu* in it may be regarded as cor-

responding to a hair-tip or a hair-hole (*romakūpa*) of the Buddha-body. And as each atom is in itself a *Dharmadhātu*, each hair-tip of the Buddha-body is an abode for the whole Buddha-body. Not only this, but at each tip of hair on every Buddha-body is found another Buddha-body, and this goes on infinitely. In physical terms this means: each atom contains within itself an infinite number of atoms, and each one of these atoms in turn contains within itself another infinite number of atoms, and this goes on infinitely. In Buddhist cosmology, each atom, together with the infinitely smaller and smaller atoms in it represents a Buddha. Thus, macrocosmically as well as microcosmically, the *Dharmadhātu* is filled with Buddhas. In every whatever direction a man may turn, he comes upon a Buddha face to face. Nay, he himself is a mass of Buddhas; he is carrying them on every tip of hair over his body, not only externally but internally.

There is a story illustrating this idea of universal, or rather, ubiquitous Buddha. There was an old woman when the earthly Buddha was still walking among us. She hated him so much that she tried to avoid meeting him on every possible occasion. But somehow, he appeared before her. As a last resort she covered her face with her hands not to see him, but behold, the Buddha invaded her eyes from between her fingers.

IV

With this preliminary note, the reader may understand what follows: Every world filling up this *Dharmadhātu* which extends to the limitless limits of the emptiness of space, the Buddha measures with the tip of a hair. Wherever this hair-tip touches there he manifests his transfor-

mation-bodies (*nirmānakāya*) at every thought-instant, equal in number to atoms composing all the Buddha-lands which are beyond calculation. This act of manifestation continues to the end of eternity.

Each transformation-body has heads equal in number to atoms composing all the Buddha-lands which are beyond calculation, and each of these heads has tongues equal in number to atoms composing all the Buddha-lands, which are beyond calculation.

Each of these tongues emits sounds equal in number to atoms composing all the Buddha-lands, which are beyond calculation, and each of these sounds preaches *sūtras* equal in number to atoms composing all the Buddha-lands which are beyond calculation.

Each of these *sūtras* preaches Buddha doctrines equal in number to atoms in all the Buddha-lands, which are beyond calculation. Each of these doctrines gives out phrases and tastes equal in number to atoms composing all the Buddha-lands which are beyond calculation.

Further, each of these doctrines gives out phrases and tastes, each differing as it is given out, through *kalpas* equal in number to atoms composing all the Buddha-lands, which are beyond calculation, and the voices reach the furthest limits of the *Dharmadhātu*, leaving no beings who fail to hear them.

The Tathāgata is thus seen revolving all the time the Wheel of *Dharma* till the end of eternity, and his voice suffers no change, no interruption, no exhaustion. This is one of his wonderful energies.

While in this wise the Buddha works on in the *Dharmadhātu*, the *Dharmadhātu* itself exhibits these qualities:

- (1) All *dharmas* have no intentionality and yet they show motivation and intelligence pure in character;
- (2) All *dharmas* have no substance of their own and yet they give rise to wisdom native to the *Dharma-kāya*;
- (3) All *dharmas* are non-dualistic and yet they are capable of enlightenment enabling them to know all things;
- (4) All *dharmas* are free from selfhood and thingness and yet they give rise to the wisdom of saving all beings;
- (5) All *dharmas* have no fixed form and yet they give rise to the knowledge whereby differentiation of form is recognized;
- (6) All *dharmas* know no coming-to-existence, no destruction, and yet they give rise to the knowledge whereby their existence and destruction are recognized;
- (7) All *dharmas* have no creator and yet they produce the knowledge whereby *karmic* relationship is made possible;
- (8) All *dharmas* are beyond words, and yet they produce the knowledge whereby they lend themselves to be expressed in words;
- (9) All *dharmas* are neither pure nor defiled and yet they give rise to the knowledge whereby the pure is discriminated from the defiled;
- (10) All *dharmas* are not subject to birth-and-death, and yet they give rise to the knowledge whereby causal relationship is made possible.

In a word—these qualities ascribed to “all *dharmas*” constituting the *Dharmadhātu* are characteristic of the

Mahayana view of the world. According to it, "all *dharma*s" remain in reality in a state of suchness (*tathatā*) or emptiness (*sūnyatā*) where no change, no becoming of any kind takes place. "All *dharma*s," therefore, are devoid of any teleological intentionality; no purposefulness or human motivation is to be ascribed to this existence of *Dharmadhātu*. But the mystery which comes out of the Buddha's incomprehensibility wisdom (*jñāna*) is that our human intellect contrives to establish a world of *karmic* relationship or a network of causes and effects infinitely complicated and intertwining. This intertwining and interfusing complexity is such that when a hair is picked up we perceive at its tip the whole system of three thousand chiliocosms in all its particularization, revealing itself, so that when one thought-instant is caught up from the eternal flow of becoming it is seen that all the past and all the future evolve out of it in either direction, backward or forward. In other words, an absolute "now" is an infinite fountain-head from which rises not only all the historical drama of the past but all the possible scenes to be enacted in the future.

This also applies to space. When the Buddha gets into a state of meditation in the western quarter of *Dharmadhātu*, he is seen to be rising from it in the eastern quarter. For this reason, Buddhists declare that Śākyamuni Buddha's enlightenment took place aeons ago and not necessarily under the Bodhi-tree by the River Nairanjanā twenty-five centuries ago, and that he is still seen and heard at this very moment preaching to the great congregation of Bodhisattvas and Śrāvakas and other beings on the peak of Mount Vulture. The *Saddharma-puṇḍarīka* Sutra takes this up as its theme and the philosophy of Tendai (*tien-tai*

in Chinese) elaborates on it.

The *Gandavyūha Sutra*⁹ illustrates the Buddhist conception of the *Dharmadhātu* by means of a sacred Tower called "*Vairocana-vyūha-alamkāra-garbha-mahākūtā-gara*" where Bodhisattva Maitreya has his residence. Sudhana, the young seeker of truth, visits this sacred Tower and Maitreya introduces the pilgrim into its secrets. Maitreya opens the door by snapping his fingers, and as soon as Maitreya and the pilgrim are inside, the door closes by itself.

The interiors of the Tower are broad and expanding as the emptiness of space and decorated with all sorts of furnishings, each one of which is made of precious stones and metals. The sutra gives a detailed description of them in a most elaborate style which will be tedious here to reproduce. Attracting our attention inside the Tower are an infinite number of towers of similar construction and with similar furnishings, yet each one of these towers is as wide and far-extending as the main Tower. They are, however, clearly and distinctly separated from one another, though each looks as if it were an exact reflection of the other. There is no confusion, no obstruction whatever, among all these similarly-looking towers in infinite numbers.

⁹ The *Gandavyūha Sutra* as we have it today forms the last volume of the *Avatamsaka*. It tells the story of a young pilgrim called Sudhana who visits fifty-three teachers, human and non-human, of both sexes. Sometimes the title *Gandavyūha* is given to the whole collection of sutras known as *Kegon* in Japanese and *Hua-yen* in Chinese. Both *avatamsaka* and *gandavyūha* in Sanskrit may be translated as *kegon* meaning "*floral decoration*." No English translation exists of this sutra-collection as a whole, except the chapter on "The Ten Stages of Bodhisattvahood" from the original Sanskrit. But I do not think the reader can learn much from this version without being fully equipped with knowledge of the Mahayana teaching.

While Sudhana was surveying one area filled with all these wonders he noticed that in this one area were seen all other areas reflected and that each one of them in turn reflected another, individually and collectively. These reflections were intermingled and interfused in an inexpressible manner and yet there was no disorderliness, no confusion, no mutual interference. All in one and one in all—yet each holding its distinct individuality.

After seeing all these wonders actually presented to Sudhana's senses in a manner which might be called visionally, or poetically, or mystically, or symbolically, or spiritually, or in whichever way one may feel like designating it, according to the position most appealing to that particular personality, Sudhana was told by Maitreya: "O my good noble-minded son, this is the way with the Dharma-nature (or Reality), and this is the way the Bodhisattva regards all *dharmas*, as appearances accumulated and manifested and sustained by the *jñāna* of the Bodhisattva. They are not complete in themselves, they are like a dream, like a vision, like a shadow or an image."

According to the Buddhist way of viewing the world as we read in the *sutras* quoted here, "all *dharmas*" take their rise from the Tathagata's or Buddha's *adhīsthāna-vasa* or *pūrvapranidhāna*, both of which may be freely translated as Buddha's will power, which is absolutely free, as nothing can limit its workings. This power may well be compared to the biblical God who at the beginning of the world uttered "Let there be light, and the whole creation came out of this will-power on the part of the creator. Just as the world is sustained by the will of this God, Buddhists ascribe all the wonders and free displays presented to the sight of Sudhana in Maitreya's Tower to the will-power of

the Tathagata who here betrays no teleological intentionalties. The *Dharmadhātu* in itself is not all complete (*aparinishpanna*), in the sense that it is not self-supporting, has no reality of its own, is like a dream, and is *Māyā*. But we must not forget that "all *dharma*s," all things, with all their incompleteness or perfectibility, are really here before our sense-intellect and are governed by laws of *karmic* relationship or an infinite series of causal linkings.

Now, Sudhana asks Maitreya, "Where do all these wonders, all these inconceivable manifestations I was permitted to witness, ultimately go?" The question is tantamount to asking about the whither of the *Dharmadhātu* or the destiny of the universe. But we must remember that the question is not from the physical or scientific or philosophical point of view. Buddhists are concerned with spiritual enlightenment and emancipation, and whatever questions they would ask about this existence as it presents itself to our sense-intellect come out of their spiritual concern and are desired to be solved on that plane. They start from premises not at all in keeping with our intellectual or rationalistic hypotheses. All the answers given by Maitreya to his inquirer are to be understood with this in mind.

"Where does this *Dharmadhātu* pass to?"

Maitreya answered, "It goes where it comes from."

"Where does it come from?"

"It comes from the Bodhisattva's *jñāna*-power and abides in it. There is no-going-away anywhere; there is no following-after; there is no accumulation, no

grouping-together, no piling-up, no standing anywhere in a field or in space.

"It is like the dragon-king who pours rain down: the rains do not come from his mind; nor are they accumulated anywhere; nor are they illusive. It is out of his will-power (*cetana-vasa*), out of his dragon-nature, that rains are poured down in infinite quantity. O my good noble-minded son, so it is with these furnishings of the Tower: they are neither inside nor outside, yet they are manifested to your view because of the Bodhisattva's will-power and your worthy receptivity.

"It is like the magician's conjuring up a world of visions: they do not come from anywhere, they do not pass away anywhere, they show no sign of moving away, all because of magical charm. So with these furnishings of the Tower: they do not go anywhere, they have not been accumulated from anywhere to make themselves visible.

"It is because of the Bodhisattva's unthinkable *jñāna*-power which works out these Maya phenomena; it because of the Bodhisattva's original vow-power (*pūṛva-praṇidhāna-bala*) whose miraculous self-regulating activities are added to the *jñāna*-power, sustaining it, activating it, inspiring it."

Sudhana now proceeds to ask the Bodhisattva Maitreya regarding the original abode he comes from. Maitreya answers:

"O my good noble-minded son, the Bodhisattva comes from nowhere and departs for nowhere; the Bodhisattva comes from the unmoved, where there

is no abiding, no settling; the Bodhisattva comes from where there is no disappearance, no coming-into-existence; he comes from where there is no staying, no being transferred; no moving, no rising; no vision, no appearance; no karma, no fruition, no birth, no death; no eternal continuity, no interruption."

But, Maitreya continues, the Bodhisattva makes his appearance here on account of his great compassionate heart, his great friendly spirit, for he wishes to save all beings from their sufferings. For this purpose he has disciplined himself in all deeds of purity; he has made great vows in the past to carry out his all-loving decision to be a good friend to all beings. Yet his exertions are characterized by non-exertion, purposelessness, non-selectiveness.

This was the way Maitreya characterized himself, and he may be taken as a typical representative of his class designated as Bodhisattvas, that is, those who are destined to be Buddhas—and therefore they are no other than ourselves. And what we must not forget here is the fact that the Bodhisattvas as such have their own *gocara* or *vishaya* or life-field which does not belong to this world of relativities and rationalization. For this reason, the *Dharmadhātu*, where they live, cannot be predicated with anything we see around us by means of the sense-intellect. As soon as we get into Maitreya's Tower, which is the symbolization of the spiritual macrocosm, we encounter an entirely different atmosphere, far removed from this world. But, of course, this does not mean that the Bodhisattva's world is spatially separated from the *sahāloka* of ours.

VI

To sum up, the Buddhist world-picture presents something distinctly its own, which can be recapitulated as follows:

(1) It has no creator in the sense that the world came into existence at a time when there had never been any before—and this by means of an external agency.

(2) The Buddhist world consists of an infinite number of macrocosms and also microcosms. The world extends beyond all limits in time as well as in space. For this reason, to say that the whole cosmos stands comfortably at the tip of a hair is not an absurdity. Nor is it irrational to state that one thought-instant contains eternity in itself.

(3) The *Dharmadhātu* is a self-regulating community. No outside laws are imposed upon it. Offenders punish themselves. A deed, good or bad, brings its own results, and there is no need for a “judge” who looks after human affairs and makes men dread his judgments. *Attanā ’va katam pāpam, attanā sankhissati, attanā akatam pāpam, attanā ’va visujjhati.*¹⁰

(4) The *Dharmadhātu* is not subject to change, it remains forever serene and undisturbed in any sense; but because of the *pranidhāna*-power of the Buddha or Bodhisattva it manifests a world of becoming where we have all kinds of opposites: good and bad, pleasure and pain, beauty and ugliness, right and wrong, truth and falsehood, etc., etc. Though they are māyā-like existences when seen from the point of

¹⁰ The *Dhammapada*, 165. By self alone is evil done, by self is one defiled; by self is evil left undone, by self alone is one purified.

view of the Mind itself, they are real as they are.

(5) The *Dharmadhātu* and the Mind (*Citta*) and the Buddha—these three concepts are names for one Reality. The *Dharmadhātu* is the Buddha or Vairocana Buddha in the *Avatamsaka Sutra* when it is personalized; it is the Mind when metaphysically viewed.

(6) The Mind has two aspects when it is considered from our relative standpoint: *prajñā* and *karunā*. *Prajñā* may be translated as transcendental knowledge and *karunā* as compassionate heart. But we must remember that all these translations do not do full justice to the original terms.

(7) Because of *prajñā*, we have self-awareness and because of *karunā* this world of particulars. *Prajñā* and *karunā* in terms of our relative mind complement each other. Because of these we go to hell and at the same time we are reborn in the land of purity and happiness.

(8) According to the Buddhist picture of the world, there is a physical world, a moral world, and a spiritual world. The value and meaning of the world is understood only when one has an insight into the spirituality of things. It is the latter that gives sense and intelligibility to the other two worlds. We cannot reach the spirit by means of moralization and intellectualization. The spirit reveals itself only when these means are exhausted—declare themselves to be altogether helpless. And it is only when this is done that the intellect works out its proper functions, and morals find their proper place to occupy in our lives.

(9) For morality to transcend itself, that is, to raise

itself to the level of spirituality, it is necessary to have something added to it. This something cannot grow out of morality itself, for it has to destroy itself, which is a contradiction. According to Buddhism, this something comes from the Buddha's "original vow" (*pū-va-pranidhāna*), which asserts itself through "sincerity" and "deep-mindedness." "Sincerity" and "deep-mindedness," which are practically the same thing are the reflection of the *pranidhāna* in our relative minds. Without this acting of the Buddha-mind in ourselves there would be no raising of ourselves to the realm of Bodhisattvas. The raising is really what is designated by a philosopher as "an existential leap."

THE NATURAL LAW IN THE CHINESE TRADITION

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THE NATURAL LAW IN THE CHINESE TRADITION

I

THE subject for our present inquiry is,—Did China in her long history develop any moral or juridical concept or concepts which may be compared with what has been known as “Natural Law” or “the Law of Nature” in the European, and particularly the Anglo-Saxon juristic and constitutional tradition?

I consider this as a very difficult assignment to be undertaken by one who knows little about law in general and “natural law” in particular. I have to ask myself these two preliminary questions: first, what is Natural Law? What do I understand to be the essential attributes of Natural Law? And secondly, what shall be the method of our comparative study of the conception of Natural Law in the Eastern and Western countries? Can I draw some historical lesson from the evolution of the concept of Natural Law in the West and then test it by applying it to the study of any counterpart concept in the East?

Without an opportunity to consult my distinguished colleagues of the Natural Law Institute, I venture to suggest, for my own guidance at least, that the conception of Natural Law as it has been developed in Europe and in the Anglo-Saxon world, seems to imply these four meanings:

- (1) Natural law is law or principles of justice readily discernible to human reason. It is, says Aristotle, “that which all men, by a natural intuition, feel to be

common right and wrong, even if they have no common association and no covenant with one another.”

(2) Natural law is divine law, the law of God. In the *Decretum* of Gratian, Natural Law is identified with the Golden Rule. “The Law of Nature,” said Coke, “is that which God, at the time of creation of the nature of man, infused into his heart for his preservation and direction and this is the eternal law, the moral law, called also the Law of Nature.”

(3) Natural law is fundamental law,—more fundamental than, and superior to, all man-made law. The Law of Nature, said Blackstone, “being coeval with mankind and dictated by God Himself, is of course superior in obligation to any other. No human laws are of any validity if contrary to this.”

(4) Natural law has always been regarded as the highest authority to which critics and reformers of law and government and revolutionaries against misrule make appeal for moral and spiritual support. Thus, the American Declaration of Independence made appeal to the “Laws of Nature and of Nature’s God.”

What was the historical lesson I have learned from the story of the evolution of the conception of Natural Law in the Western World? I have studied all the published lectures of the Institute, and I am particularly interested in the papers by Dean Manion, Professor Ernst Levy, Mr. Richard O’Sullivan, and Professor Edward S. Corwin. The moral I read in the three historical papers by Manion, O’Sullivan and Corwin seems to be this: That the greatest and most important role which the concept of Natural Law has played in history has been the role of a

supreme fundamental law which (in the words of Professor Corwin), "may be appealed to by human beings against injustices sanctioned by human authority."

This historical role is most explicit in the development of the common law tradition and of the Constitutional Law in the Anglo-Saxon world. Speaking of the great constitutional principle of Henry de Bracton—"The King is under God and the Law,"—Mr. O'Sullivan says:

With this principle, which is implicit in Magna Carta, Sir Edward Coke will meet the claim of the first Stuart King to rule by divine right. With these words, the President of a scarcely constitutional tribunal will condemn a second Stuart King to death. With these words, another Stuart King will be admonished in the hour of the Restoration.

And speaking of Coke's dictum of "common right and reason," Professor Corwin says:

Just as Coke had forged his celebrated dictum as a possible weapon for the struggle which he already foresaw, against the divine right claims of James I, so its definitive reception in this country (the Colonies in America) was motivated by the rising agitation against the Mother Country.

As Professor Ernst Levy points out in his paper on "Natural Law in the Roman Period," the great moments of the Natural Law occur only "when mankind in general or some country in particular faces a cataclysm threatening to destroy or distort the fundamental liberties," and responsible men, "confronted with the complete inadequacy of their usual resources," turn and appeal to "that higher law which holds out the promise

of ensuring their basic individual rights against the encroachments of tyrannical powers.”

In short, the most significant historical role of the concepts of Natural Law and Natural Rights has been that of a fighting weapon in Man's struggle against the tyranny of unlimited power and authority. I believe it may be a useful and fruitful procedure in my present comparative study to try to test and verify the validity or universality of this historical lesson or thesis. I shall not, therefore, be contented by merely seeking to establish that a certain Chinese idea seems to possess some of the meanings of the Western concepts of Natural Law. I shall try to find out whether it could be understood in its historical context: whether it has served as the rational criterion or ground for judging and criticizing the laws and government or social institutions of its time; and whether it has been set up as an ideal and appealed to as the supreme authority in the nation's fight against the injustices of human laws and institutions sanctioned by the unlimited powers of political authority.

II

All social and political thinking usually begins as a criticism of existing government, laws and institutions which have become unsatisfactory, harmful or oppressive. In passing adverse judgment on time-honored institutions sanctioned by the political authority of the state and in proposing new and possibly radical theories or measures of reform, it has always been necessary for critics and reformers to appeal to some authority higher and more trustworthy than the highest political or ecclesiastical authority of the time.

This is true at least of the long history of Chinese social and political thought, in which the student can discern a number of superficially different but essentially similar patterns in an endeavor to appeal to a higher law or a higher authority.

In the Chinese tradition, this appeal to a higher authority has taken these main forms. (1) Sometimes it takes the form of appealing to the authority of an imagined and quite freely idealized antiquity,—the Golden Age of the ancient sage-rulers. (2) Sometimes it takes the form of appealing to the Will of God (*t'ien-chih* or *t'ien-i*) as the highest norm or law. (3) Sometimes the appeal is made to the Way (*tao*) of Heaven or Nature, which is the Law of Nature. (4) Sometimes, especially under the long, long centuries of the vast unified empire, the appeal is made to the authority of the Canon (*ching*, meaning the invariable, immutable way) of the Sacred Scriptures of Confucianism as the highest authority on all matters of moral and political justice. (5) And sometimes the appeal is made to Reason or Law or Universal Reason or Natural Law (*li*, or *tao-li*, or *t'ien-li*) as it is intuitively evident in the moral conscience of men,—what may be termed in the words of Coke “the common right and reason” of man.

All these bear some essential resemblance to the historical appeals in the Western world to Natural Law and Natural Right. Even the first of these patterns, namely, the idealization of remote antiquity as the Golden Age, is not so strange or so unreasonable when one recalls the numerous “utopias” designed by the social and political thinkers of the West, and especially when one recalls that the doctrine of Natural Rights was orig-

inally conceived as rights of men "in the state of nature" before they entered into the Social Compact or Social Contract. The Chinese thinkers, notably the Confucianists, who read their ideal social and political order into the remote reigns of sage-rulers, were merely inventing their "utopias" and populating them with supposedly historical personages, such as Yao, Shun and Yü, whom traditional chronology placed in the third millenium B. C.

When Confucius said: "If there was any ruler who did nothing (*wu-wei*), yet governed well,—was it not Shun? For what in effect did Shun do? Religiously self-disciplined, he sat reverently on the throne, and that was all,"—he was eulogizing the political ideal of non-interference or *laissez-faire* (which, as we shall soon see, had been taught by his teacher Lao-tze) and making it more real by projecting it into the ancient reign of Shun, of whom we know as little as of the state of nature of Locke or of Rousseau. And when Mencius and the other political philosophers of ancient China vividly and sometimes dramatically described how the great sage-ruler Yao handed down the throne and the empire, not to his own son, but to Shun, the wisest man of the age and the choice of the people; and how Shun, in his turn, handed down the throne and the empire, again not to his own son, but to the great Yü who had controlled the Great Flood and was the choice of the people,—they were not deliberately fabricating history, but were merely using their utopian ideals to voice their own criticism of the evils of the hereditary monarchy and were covertly advocating a new and radical system of selection of the worthiest men to be rulers.

After this brief explanation of what may seem to have been a peculiarly Chinese appeal to the authority of the utopian antiquity, I propose to take up in greater detail four concepts in Chinese thought which in my humble opinion have played an historical role not unlike that of the Natural Law concepts of the Western World. They are:

1. The concept of the way (*tao*) of Heaven or Nature as taught by Lao-tze.
2. The concept of the Will of God (*t'ien-chih*) as taught by Mo Ti.
3. The concept of the Sacred Canon (*ching*) as developed in medieval China.
4. The concept of Reason or Law (*li*) or Universal Reason or Law (*t'ien-li* or *tao-li*),—Natural Law in the sense of "common right and reason,"—as developed in relatively modern times.

III

The first Chinese concept to be studied is that of *tao* or *t'ien-tao* as it was taught by Lao-tze. *Tao* means the road, the way, the law of action or movement. *T'ien* is God or Heaven or Nature. *Tao* or *t'ien-tao* may be translated "the way of Heaven," the "way of Nature," or the "law of Nature."

Lao-tze, the senior contemporary and teacher of Confucius, lived in the 6th century B. C. His age was one of frequent wars among the many rival states. A few great Powers were rising and developing a number of centers of population, commerce and civilization. Taxation was heavy, labor and service were conscripted, and government was mostly autocratic and oppressive. Here is what

Lao-tze himself said about the conditions of his own time:

"There are more and more restrictions and prohibitions, but the people are becoming poorer. The people are using more cunning implements, but the states are in worse troubles. More and more laws and ordinances are being promulgated, but there are more thieves and robbers than ever."

"The people starve because those above them eat too much tax-grain. The people are difficult to keep in order, because those above them interfere. The people are risking death [to commit crime] because they want very much to live."

"The people are not frightened of death. What then is the use of trying to intimidate them with death-penalty?"

Against this age of war, disorder and restrictions, Lao-tze postulated the concept of "the Way" (*tao*) or "the Way of Heaven," as the fundamental principle of individual conduct, political action and civilization in general. The words were old words, but he had given them an entirely new meaning. "The Way," says Lao-tze, "does nothing (*wu wei*), and yet there is nothing that remains undone." "The Way of Heaven strives not, but it is sure to conquer. It speaks not, but it is sure to respond. It beckons not, but things will come to it of themselves. The net of Heaven is vast, very vast: it is wide-meshed, but it loses nothing."

This basic conception of the Way of Heaven as non-action, as do-nothing was applied to many aspects of life and activity. In Ethics, it developed the doctrine of non-striving, of not-resisting, of water as the example of the highest virtue because water benefits all things and resists

none,—a doctrine not unlike the Christian doctrine of non-resistance to evil. In his opposition to the artificiality and over refinement of civilization, Lao-tze anticipated Rousseau and Tolstoy by more than twenty-three centuries.

This concept was fully developed as a theory of government by non-interference and non-assertion, — by *laissez-faire*. Says Lao-tze: "I do nothing, and the people will be transformed of themselves. I love quietude, and the people will of themselves go straight. I do not interfere, and the people will of themselves become prosperous." "The best kind of government is one whose existence is not noticed by the people,"—which is a more forceful way of saying that that government is best which governs least.

So, twenty-five hundred years ago Lao-tze was preaching in ancient China a political philosophy of non-interference and non-assertion based on his conception of the Way of the Law of Nature, a philosophy which bears striking resemblance to the *laissez-faire* philosophy of eighteenth century Europe and America, and to the Natural Law philosophy of Herbert Spencer and William Graham Sumner late in the nineteenth century. Behind it all there was a deep distrust of the blundering clumsiness in human interference as contrasted to what was idealized as the unerring efficacy of the Way of Heaven or the Law of Nature. Thus says Lao-tze: "There is always the Great Executioner who does the executing. Now to attempt to do the Great Executioner's executing for him is like offering oneself to do the master-carpenter's chipping for him. He who offers to do the master-

carpenter's chipping for him rarely escapes the fate of cutting his hand."

This appeal to the concept of the Way of Heaven as non-action which yet achieves everything, must have sounded timely and convincing twenty five centuries ago. Confucius more than once referred favorably to the idea of "*wu wei*" (do nothing) in his conversations with his students. In the course of the next three centuries, the concept of *wu wei* as the Way of the Law of Nature was accepted by most of the political and juridical thinkers. In the third century B.C., when the wave of military conquest and authoritarian control by the militant state of Ch'in was threatening to sweep over all the States in the East, those philosophers and intellectuals taking shelter on the southeastern coast of Ch'i (modern eastern Shantung) made a desperate effort to develop the philosophy of non-action in all its possible implications. It was probably this group of refugee intellectuals that had tried to invent the legendary person of Huang-ti (the Yellow Emperor) and make him father of a large number of "taoistic" work of all kinds. That is why the "taoist" school of the philosophy of *wu-wei* was also known as "the school of Huang-ti and Lao-tze."

Out of the refugee philosophers on the eastern coast, came the philosopher Kai Kung who in the early years of the Han Empire, succeeded in converting the great general Ts'ao Ts'an to the political thinking of the *wu-wei* school. Ts'ao Ts'an tried it in his administration of the eastern coastal area of Ch'i and found it eminently successful. When Ts'ao was called in 193 B.C. to become the Prime Minister of the Han Empire, he was able to put this philosophy into practice on a national scale.

Historians tell us that the deliberate experimentation with the political philosophy of non-interference by Ts'ao Ts'an and later by the wise Emperor Wen-ti (179-157 B.C.) and his wife, the Empress Tou (in power from 179 to 135 B.C.) brought prosperity to the people and wealth to the national treasury and succeeded in giving the nation a chance to recuperate from the long years of war and revolution and to learn to appreciate the real benefits of a vast unified empire with no tariff walls, with no standing army, and with little interference from the authorities of the government.

IV

The conception of the Way of Heaven or Nature as taught by Lao-tze and accepted by Confucius was too naturalistic and too radical to please the vast majority of the people who were followers of the traditional Sin-itic religion, which in its broadest terms comprised the worship of ancestors, of spirits and gods, a belief in retribution of good and evil, and a vague notion of a Supreme Being still known as Heaven (*t'ien*) but undoubtedly regarded as all-knowing and all-powerful, and as the highest of all the gods.

The learned professional masters of religious rites and rituals generically known as the Ju (of which profession both Lao-tze and Confucius were the most outstanding leaders), while still busily practicing their traditional profession and presiding or assisting at funerals, burials and sacrifices, had already been intellectually breaking away from many of the fundamental beliefs of the popular religion.

When asked by a student how to serve the gods and the

spirits, Confucius answered: "We have not yet learned how to serve men, how can we serve the gods?" The same inquirer went on to ask about death. Confucius said: "We know not what life is, how can we know what death is?" And on a different occasion, he told the same questioning disciple: "Shall I tell you what knowledge is? To say you know when you do know, and to say you do not know when you do not know; that is knowledge."

From this agnostic position, it was probably an easy step to a frank denial of the existence of the spirits and the gods. And it was recorded that at least some followers of Confucius in the fifth century B.C. openly declared that there were no gods and spirits.

It was in that age of rising naturalism and skepticism that there arose a great religious leader to champion the cause of the religion of the people, and to preach a greatly revitalized theistic religion. This leader was Mo Ti, who lived from about 500 B.C. to about 420 B.C. He severely criticized the Ju for their atheism, for their expensive and extravagant but insincere ritualism in mourning, burial and sacrifices, and for their naturalism as expressed in their fatalistic determinism. Against all this, Mo taught a vital and vigorous religion of an all-loving God, a religion which preached "love for all men without distinction" and which condemned all wars.

Mo Ti declared that the Will of God (*t'ien-chih*) should be the criterion of all judgment of right and wrong, the standard of all measures, the highest norm and law. He said: "The Will of God is to me what the compasses and the carpenter's square are to the artisan. The artisan measures all circles by his compasses which are the standard form of the circle. And he measures all squares by

the carpenter's square which is the standard form of the square. Now I have the Will of God, I shall use it to measure and judge the laws, penalties, and governments of the kings, princes, and grand officers of all states in the world; and I shall use it to measure and judge the words and acts of all the people. Whatever is in accordance with the Will of God is right; whatever is opposed to it is wrong."

Now, what is the Will of God? Mo Ti repeatedly said: "The Will of God is to love all the people in the world without distinction, and to benefit all the people in the world without distinction. How do I know that the Will of God is to love all people without distinction? Because God fathers all people without distinction and feeds all people without distinction."

To show the moral vigor and the logical consistency of Mo Ti, who was undoubtedly the greatest religious leader that China has ever had, I cite here a part of the first of his three chapters on "Condemnation of War":

"... Killing one man constitutes one crime punishable by death. Applying this principle, the killing of ten men makes the crime ten times greater and ten times as punishable. And the killing of one hundred men increases the crime a hundred-fold and makes it a hundred times as punishable.

All these are condemned by the gentlemen of the world as wrong.

But when these gentlemen come to judge the greatest of all wrongs—the invasion of one state by another—which is a hundred thousand times more criminal than the killing of one man), they no longer condemn it. On the contrary, they praise it and

pronounce it to be 'right'. Indeed, they know not that it is wrong . . .

Here is a man who sees a few black objects and calls them black, but who, after seeing many black things, calls them white. We must say that this man does not know the distinction between black and white . . .

Here are the gentlemen of the world who condemn a small wrong but praise the greatest of wrongs—the attack of one country on another—and call it 'right'. Can we say that they know the distinction between right and wrong?"

This strong opposition to war was not merely preached in words, but actually undertaken by Mo Ti and his followers as a course of practical conduct and policy. They would travel far to persuade states to abandon wars and would sometimes volunteer to help weak states to defend themselves against attack.

The religion of Mo or Moism (the only Chinese religion that bore the name of its founder)—the religion which followed the Will of God, condemned all wars, and practiced the love for all men without distinction—had a great following for more than two centuries. Then it seems to have died out toward the end of the third century B.C. One of the main causes of its decline and final disappearance was that its doctrine of universal love and anti-militarism was incompatible with the age, which was an age of great wars and conquests resulting ultimately in the military unification of China by the State of Ch'in in 221 B.C.

But the spirit of the Mo religion—notably its theism and its inspiring doctrine of love for all men without distinc-

tion (*chien-ai*) as the Will of God, as the highest law,—seems to have lived on and become no mean part of the content of the State Religion of Confucianism of the Han Empire.

V

Another Chinese concept I propose to take up is that of the supreme authority of the Canon (*ching*) or Canonical Scripture of Confucianism. The underlying idea was to establish a body of sacred scripture that could be revered and appealed to as the basic law of the land with supreme authority above the absolute monarch and his laws and government.

China became a unified empire in 221 B.C. The first empire which brought about the unification by military conquest, lasted only fifteen years (221-206). Its authoritarian regime which burned books and prohibited private teaching, was overthrown by a revolution. The second empire—the Han Empire—lasted over four hundred years (200 B.C. to 220 A.D.).

The political thinkers of the age, especially of the second century B.C., were faced with a dual problem: the consolidation of the government of the empire to insure peace and stability, and, at the same time, the safeguarding of the nation against the dangers of the unlimited power of the hereditary monarchy in a vast unified empire within which there was no longer any asylum for rebels and political refugees. "Between heaven and earth, there is no escape from the tie of the subject to the ruler." The difficult problem was how to check the powers of the unlimited monarchy. It was like "begging the tiger to give you his skin." But the Chinese philosophers wanted to make an earnest try at it.

It must be admitted that the Chinese statesmen-philosophers had a fair measure of success in the attempt to establish the *ching*, the Canon of the state religion of Confucianism, as a source of moral and legal authority higher than the highest political authority in the land.

The Canon originally consisted of five major works:

1. The Book of Changes.
2. The Book of Songs.
3. The Book of History.
4. The Book of I Li (a collection of 17 books of ancient ceremonies).
5. The Ch'un Ch'iu Annals (chronological record of events from 722 to 481 B.C. supposedly written by Confucius himself).

Each of these formed the subject of specialized study by a Doctor or Professor in the National University which began to have fifty students in 124 B.C. and grew to ten thousand students in the early years of the Christian Era and to thirty thousand students in the second century A.D. A number of minor works of the Canon such as the *Analects* of Confucius, the *Book of Mencius*, and the *Hsiao ching* (*The Canon of Filial Duty*), because of their linguistic simplicity, were required to be read as primary texts in the learning of the classical literature.

The term *ching* means "the constant," "the invariable standard," the "immutable law." A classical scholar of the fifth century A.D. said: "The times may change, dynasties may come and go, and metal and rock may decay and perish, but the Canon (*ching*) will always remain as the unchanging rule and as the immutable law for a hundred generations to come."

The authority of the Confucianist Canon was gradually established not only because these books were read and studied by the thousands in the University and at the private schools, but also because it was strongly supported by the theology and philosophy of the state religion of Confucianism. One of the most important founders of this religion was the philosopher Tung Chung-shu (200?-123? B.C.) who built up a strange but powerful theology of Heavenly warnings on the basis of the *Ch'un Ch'iu Annals*. Among the recorded events in that chronological work, there were numerous entries of floods, great fires, famine, pestilence, eclipses of the sun and other disastrous and unusual occurrences. These were interpreted as meaningful records of "Warnings from Heaven" to the rulers on earth. Such heavenly warnings were of two categories: the Catastrophes (*tsai*) and the Anomalies (*i*). A famine or a great fire is a catastrophe, but an eclipse of the sun is an anomaly which is a more serious warning than a catastrophe.

Tung Chung-shu sums up the central idea of this theology in one sentence: "The action of man, when it reaches the highest level of good and evil (that is, when it becomes governmental action affecting the welfare of vast numbers of men), will flow into the universal course of Heaven and Earth and cause reciprocal reverberations in their manifestations."

Tung Chung-shu taught that it is the Will of God (*t'ien-i*) to love and benefit all the people. It is the duty of the ruler to obey and carry out the Will of God. When the rulers fail to do their duty, they are warned by God through the catastrophes and abnormalities. "When a state is set on its ruinous course, Heaven will cause catas-

trophes to befall it as warnings to the ruler. When these warnings are not heeded, then Heaven will cause strange anomalies to appear to terrify the ruler into repentance. But when even these more serious warnings fail to check his evil acts, then ruin will come. From this,—so Tung Chung-shu told the emperor Wu-ti, “we can see that Heaven is always kind to the ruler and anxious to protect him from destruction. Heaven will always try to protect him and lead him back to the right way if he is not beyond correction. All depends upon one’s determination and earnest endeavor.”

These courageous words were written as an answer to questions which the young emperor Wu-ti (140-87 B.C.) had put to the several famous Confucian scholars whom the provinces had recommended to the Court. Tung Chung-shu spoke like a prophet and with authority. On the basis of these words there was built up a highly complicated and terrifying theology of Han Confucianism, which is in reality Confucianism as it was interpreted by Tung and other theologians of the second and first centuries B.C.

This theology was centered on the *Ch’un Ch’iu Annals*, the only work in the major Canon which was supposed to have been written by Confucius himself, the other four being all pre-Confucian and belonging to the “Old Testament” part of Confucianism. According to Tung Chung-shu and other eminent authorities of the age, the *Ch’un Ch’iu Annals* were written by Confucius *as laws for the future Han Dynasty!* The great sage (who was conceived by the Han theologians and by the people in general as having been endowed with divinity and prophetic pow-

ers) was said to have actually "legislated for the great Han Dynasty."

One of the important works written by Tung Chung-shu was entitled "Judicial Precedents from the *Ch'un Ch'iu*" in which he listed 232 events recorded in that Canonical work and interpreted their juridical meaning for the guidance of future legal decisions. That work (which has been lost and is only fragmentally preserved through a number of quotations cited in medieval law books) had great influence in the development of medieval law and jurisprudence.

This theistic religion of Han Confucianism with its vividly personal and theological conception of Heaven and God and with its terrifying theology of Catastrophes and Anomalies, became in the first century B.C. the established religion of the Empire. It became the duty of the Doctors of the University and of the ranking ministers of state to interpret every new catastrophe or anomaly as it occurred, and to censure the government for any particular act of misrule which, according to their interpretation, had brought about the Heavenly warning. Such interpretations often differed with the different interpreters. So every flood, or great fire, or earthquake, or eclipse of the sun, became a lively and free-for-all occasion for frank criticism and censure of the government, the **Emperor or the Prime Minister**. And at least on a number of historic occasions, such frank criticism based on Heavenly warnings did bring about redresses of legal or political injustices or reforms in government policy.

It is beyond doubt that throughout medieval China and down to fairly recent centuries, the Canon of Sacred Scripture of Confucianism, including the *Analects* of Con-

fucius, the *Book of Mencius* and the *Canon of Filial Duty*, was revered and regarded as the highest authority in all matters of morals, law, social relations and government policy. It had the authority of Divine Law, an authority comparable to that of the Bible in the Christian countries.

The Confucianist Canon acquired this authority not merely because of the establishment of Confucianism as a state religion, nor merely because it was required reading in all Chinese schools and used in all civil service examinations for the selection of men for public offices, but primarily because some of the books included in the Canon in its broader sense do contain some of the universal principles of justice which, in the words of Aristotle, "all men, by a natural intuition, feel to be common right and wrong." For instance, in the *Analects*, Confucius twice laid down the negative (therefore logically, the universal) form of the Golden Rule: "What you do not want to have done to you, do not do to others." And the *Book of History* has contributed to Chinese jurisprudence a number of universal maxims such as "When in doubt, give the lighter sentence"; "Rather miss a guilty one than condemn an innocent one"; "Heaven sees through what my people see, and Heaven hears through what my people hear."

A few historical events may help us to understand this supreme authority as universal natural law of common right and wrong which the Confucian Canon achieved in historic China throughout the ages.

In the year 74 B.C. there occurred an unprecedented event of the impeachment and dethronement of a young emperor who had been on the throne only twenty-seven days. Ho Kuang, the Prime Minister of the Empire, called a meeting of the Council of Ministers, Generals, Peers,

Grand Officers, Doctors of the University, and Councilors of the court to discuss the disorderly conduct of the young sovereign and decide what should be done. The meeting decided upon a Petition of Impeachment against the emperor. The Empress Dowager was requested to hear the petition in the presence of the young emperor. The Empress Dowager, after hearing the Petition signed by all members of the Council, decreed that the emperor be forthwith dismissed from the throne.

There was no legal provision or precedent for this. The historical precedent privately cited to the Prime Minister by his friend and adviser was the dethronement of King T'ai Chia by his chief minister I Yin, which allegedly took place about 1753 B.C. and was recorded in such Canonical works as the *Book of History* and the *Book of Mencius*. And the main argument in the Petition of Impeachment was that the young sovereign had violated his filial duties as the adopted heir of the recently deceased emperor. As authority for the charges, the Petition cited two works of the Canon: the Kung-yang Commentary of the *Ch'un Ch'iu Annals* and the *Canon of Filial Piety*.

And as the young emperor was being led away from the throne, he turned to the powerful Prime Minister and quoted to him these words of Confucius: "If the Son of Heaven has seven outspoken ministers, he, though guilty of misrule, will not lose his empire." That quotation, too, is from the *Canon of Filial Piety*.

In the year 9 A.D., the reformer Emperor Wang Mang issued his most famous edict proclaiming the emancipation of all male and female slaves in the empire and the nationalization of all land. His arguments for both policies were based on moral and political principles con-

tained in the Canonical books. For example, he condemned the institution of slavery and the sale and buying of slaves in the same market with horses and cows as "opposed to the Will of Heaven, and in violation of the principle 'Of all that are born of Heaven and Earth, Man is of the highest worth'." That quotation is also from that little classic, the *Canon of Filial Piety*.

I shall cite one more historical event to show how firmly established was the authority of the Confucianist Canon over and above the arbitrary power of rulers and governments. This event involved the *Book of Mencius*, one of the most popular works in the Canon.

Mencius (327-289 B.C.) was a radical and democratic thinker who wrote in a most brilliant and most forceful prose style which makes his book the most indispensable and enjoyable reading to all students of classical literature. But his political views were often found to be disquieting and disturbing to some people. He has taught for instance, that "in a state, the people are of first importance, the shrines of the state gods (symbols of the state itself) come next, but the ruler is least important." He has taught us that "when a prince treats his subjects like dirt and grass, then the people will naturally regard him as a bandit and as an enemy." And he has, in plain language, justified the right of the people to rebel against a despotic ruler and even to kill him, for he who violates the principles of benevolence and justice, is no longer a ruler, but a nobody to whom no one owes allegiance.

In the last decades of the fourteenth century, Emperor Hung-wu (1368-1398), the founder of the Ming Dynasty, who was one of the most tyrannical rulers in Chinese history, found the *Book of Mencius* to be too

dangerous to be read by everybody in the schools. So he decreed that Mencius' tablet should be removed from the Temple of Confucius where he had occupied a place second only to Confucius himself; and that the *Book of Mencius* should be thoroughly expurgated. *Mencius* was duly expelled. The Emperor appointed a trusted scholar to prepare an expurgated edition of the *Book of Mencius*. About a third of the book was stricken out and an Imperial Edition was published under the title *Mencius Expurgated* (*Meng-tzu chieh-wen*).

But a few years later, the Emperor, probably troubled by his own conscience, ordered that Mencius be restored to the Temple of Confucius to be worshipped as before. And his *Mencius Expurgated* was ignored by the people who continued to read Mencius *in toto* throughout the two hundred and seventy-odd years of the Ming Dynasty. There is only one copy of the Imperial expurgated edition left in the world,—it is in the National Library of Peiping.

This is the story of the concept of the Sacred Canon of Confucianism as "the invariable rule," "the immutable law," in all matters of morals, law and government. It is true that neither the Canon, nor the state religion founded on it, succeeded very far in limiting the unlimited monarchy. Nevertheless the Confucian Canon did succeed in serving as a body of "Divine Law" or Sacred Law, as Natural Law in the sense of its many universal principles or morality and justice, and as Natural Law in the sense of the supreme fundamental law to which social and political critics and reformers constantly appealed for support and justification, and which even the most unscrupulous despot never quite dared to challenge.

VI

There are two Chinese words which, though different in written form, have the same modern pronunciation of *li*, and which have often been translated as "natural law" or regarded as equivalent to or comparable to the idea of natural law in the Western World. Professor Joseph Needham of Cambridge University has tried to differentiate the two words by transcribing them as *li^a* and *li^b*. I shall distinguish them by using their older pronunciation as preserved in the Cantonese dialect: thus:

the first *li* (*li^a*) becomes *lai*, and
the second *li* (*li^b*) becomes *lei*.

The first *li* (*lai*) I shall discuss briefly; the second *li* (*lei*) I shall treat in some detail.

The word *lai* originally means a religious sacrifice, and has come to mean ceremony, ritual, good customs, and rules of propriety. The body of such customs and rules of propriety generally covered by the name *lai* is very large and includes rules or principles of family relations, clan relations, social relations, religious worship in its various aspects such as ancestor-worship, funeral, burial and mourning.

The concept of *lai* has often been regarded by Western observers as comparable to that of Natural Law in the West. Professor Kenneth Scott Latourette of Yale University, for example, says

Originally quite possibly employed to designate the manners and customs of the aristocracy, in the course of the centuries *li* [*lai*] came to be regarded as binding on all civilized mankind. It was conceived of as conforming to the will of Heaven and akin to, al-

though not identical with, the concept of natural law which was present in the Graeco-Roman world and has been transmitted to the modern Occident.

Professor Joseph Needham says:

The body of ancient customs, usage, and ceremonial, which included all those practices, such as filial piety, which unnumbered generations of the Chinese people had instinctively felt to be right—this was *li* [*lai*], and we may equate it with natural law.

Personally I am not inclined to accept these views which more or less "equate" the Chinese concept of *lai* with natural law. Much of what has come down to us as ancient *lai* is so extravagantly elaborate that is very difficult for us to believe that it was actually practiced at any time, even by the most leisurely classes. It was most probably worked out by a professional priesthood — the Ju, the priesthood of the conquered people of Yin or Shang, the professional teachers and masters of the rituals of funeral, burial, mourning and sacrifice which, five or six centuries after the conquest of the Yin people by the Chou, were already exerting some considerable influence on the ruling classes of the States of Chou origin ruling over a population in which the Yin people formed an ethnographic majority. Thus we find in the most authentic Confucian and post-Confucian records many instances of the Ju serving as masters of ceremony at the funerals of nobles and officials of such States as Lu and Wei, both of which were ruled by direct descendants of the founding Kings of Chou. The religion and culture of the conquered people of Yin were beginning to conquer their conquerors. The conquest took many long centuries to complete and it was greatly accelerated by the remarkable leadership of Con-

fucius, who was always conscious of his royal lineage from the Kings of Yin.

Much of the ancient *lai* as most fully represented in the seventeen books of the *I Li*, was frankly labeled as "*lai* of the *shih* classes." The *shih*, the sword-carrying class of gentlemen, formed the middle or upper-middle class in the various States. It is inconceivable that the elaborate and extravagant rituals prescribed in that Canonical work could have been carried out by that class or any other class. Therefore it is incorrect historically to say that the *lai* represented that which "unnumbered generations of the Chinese people had instinctively felt to be right." No man could instinctively feel such labored extravagance to be right.

Let us take as an example the practice of three-year period of mourning for one's dead parent. Although Confucius spoke of it as "the general practice of all the people in the world," it was openly opposed by one of his own disciples. When two centuries later Mencius persuaded the young Duke of T'eng to practice it, it was strongly opposed by all the nobles and officials of the Duke's Court, who said: "Our past rulers never practiced it. Nor did the rulers of the State of Lo [which was the home State of Confucius]." And it was vehemently attacked by Mo Ti and his followers. It was not practiced by the Court and the officials of the Han Empire from the reign of Wen Ti (179-157 B.C.) to 116 A.D. It was the cumulative political influence of the established State religion of Confucianism that made the Court and the people gradually adopt the custom of three-year mourning. There is very little naturalness, or instinctiveness, or universality

in this practice, which has made mourning expensive, wasteful and insincere.

But I want to add that the *lai* is an important part of the Canon (*ching*) of Confucianist Scriptures. The *lai* group of the later enlarged Canon includes the *I Li*; the forty-six books of the *Li Chi* collected in the first century B.C.; and an ambitious utopian "constitution" entitled the *Chou Li* which was supposed to represent the organization of the Chou empire as it was worked out by the Duke of Chou of the eleventh century B.C. The historical role of *lai* as a higher law and higher authority to which appeal was made from time to time in the interest of economic, juridical and, political reforms,—such as the reforms of Wang Mang of the first century A.D. and Wang An-shih of the eleventh century A.D.—is therefore an integral part of the story of the establishment of the supreme authority of the Sacred Canon (*ching*) which has already been told in an earlier section of this paper.

VII

I shall now return to the second *li* for which I shall use the Cantonese pronunciation of *lei*. This is one of the four major concepts which I originally set out to study as Chinese counterparts of the idea of natural law.

Lei etymologically means "markings of the divisions in the fields," "markings or veins in the jade," "grains in wood," "fibres in muscles." Hence it has come to mean the form and texture of a thing, or the quality or nature of a thing. Hence it acquires the meanings of the reason or *raison d'être* or the law of a thing or of things.

In a collection of miscellaneous writings attributed (often wrongly) to the political philosopher Hain Fei who

died in 233 B.C., there are two books which are the earliest extant commentaries on the *Book of Lao-tze*. In one of these, there are some interesting definitions of the terms *tao* and *lei*:

Tao (the way of the law of Heaven or Nature) is that by which all things become what they are; it is that with which all *lei* (the law of things) is commensurable.

Each of the ten thousand things has its own distinct law (*lei*) but the *tao* commensures the law (*lei*) of all things.

The *lei* of things comprises their qualities of squareness or roundness, shortness or length, coarseness or fineness, hardness, or brittleness, weight and color.

From these we can discern an effort to differentiate the meaning of these two words, making *tao* stand for the concept of "the Way or Law of Nature" in the universal and all-pervading sense, and *lei* confined to the meaning of "the reason or law of things," that is, the law of nature as manifested in all things. But in spite of such attempts at definition and distinction, the two terms have continued to be interchangeable in use.

In an interesting passage, Mencius (c. 372-c. 289 B.C.) used the word *lei* in the sense of universal truth, in the sense of what agrees with "common right and wrong." He said:

"All mouths of men agree in enjoying the same relishes; all ears agree in enjoying the same (musical) sounds; all eyes agree in recognizing the same beauty. Is there nothing which all minds agree in affirming to be true? What is it then which all minds recognize to be true? It is *lei* (universal truth or law) and *i* (uni-

versal right or righteousness) . . . Universal truth and right are agreeable to our mind, just as tasty meals are pleasing to our taste."

The monosyllabic word *lei* often appears in the two bi-syllabic forms both in the classical language and in popular parlance: (1) *tao-lei*, literally, the way and reason, that is, universal truth or natural law; and (2) *t'ien-lei*, the reason or law of God or Nature.

In the Han Fei book already referred to, the term *tao-lei* occurs many times. The following passage is typical:

For those who work in accordance with the universal laws of nature (*tao-lei*), there is nothing that they cannot accomplish. . . . For those who act foolishly and in disregard of the universal laws of nature, even though they may possess the power and authority of Kings and princes and the fabulous wealth of an I-tun or Tao-chu, they will alienate the support of the people and lose all their possessions.

In the popular language of the people, *tao-lei* means what Mencius regards as that which all minds agree in affirming to be true and just. It is Natural Law in the sense of "common right and reason." A story is told of the first Emperor (960-975 A.D.) of the Sung Dynasty who one day asked his chief minister and adviser, Chao Pu, "What is the greatest thing in the world?" Chao Pu was thinking over the question when the Emperor again asked, "What is the greatest thing in the world?" Chao Pu replied: "*Tao-lei* is the greatest." The Emperor was so pleased with the answer that he repeatedly said, "How right you are!"

The term *t'ien-lei* originally means "the natural arrangement of muscles in the animal body." It has come to

be used in philosophical literature in the sense of the original pure and unsullied nature of man, and also in the sense of the Law of God or the Natural Law. In the latter sense, it is sometimes interchangeable with *t'ien-tao* (the Way of God, the Law of Nature), and sometimes distinct from it in that whereas *t'ien-tao* stands for the universal, all-pervading and immutable Law of God or Nature, *t'ien-lei* seems to mean certain more specific truths which are generally recognized as natural laws in things, that is, as the Law of God or Nature in its manifold manifestations in the things of the universe.

In the following pages, I shall cite a few facts to show the historical role played by these natural law concepts of *lei* and *t'ien-lei* to which the Chinese philosopher-statesmen from time to time made appeal in their criticism of government policy and in their fight against injustice and misrule.

Tung Chung-shu, one of the most influential founders of the State Religion of Confucianism in the Han Empire, was probably the first man to make appeal to the Law of God (*t'ien-lei*) in his attack on the nobles and officials of the Empire who engaged in commerce and industry in competition with the common people. He said to the Emperor Wu-ti:

. . . Now the world of antiquity is the same world of the present day. Why then are we so far behind the ancients in the peace and welfare of the people? Is it possible that there has been failure in following the Way (*tao*) of the ancients and that there has been deviation from the Law (*lei*) of God?

Even God has had to divide his creatures into groups or classes. Those creatures which are given the upper

teeth, have no horns or antlers. Those which have wings, are given only two feet. The meaning of all this is that whosoever receives the greater gift, must not take the smaller one.

In ancient society, those who received their pay from the State had to refrain from manual work for gain and must not engage in commercial business. That is the same principle that recipients of higher gifts must not take the lower one: that is in agreement with the Will of Heaven.

Even God could not satisfy those who, having gotten the greater gifts, wanted to take in all the minor ones. How can man ever satisfy them? That is why the people today are crying out in their poverty.

Then he went on to attack the powerful families who abused their power and wealth and competed with the people in all gainful professions, with the result that the rich became richer, and the poor became poorer and poorer. "Therefore," said Tung Chung-shu, "those who live on their official salary or hereditary pensions, must not compete with the common people in the profitable trades and professions. That is the law of Heaven and also the Way of the ancients. The government should make this a law of the empire which all officials must obey."

In the eleventh century, the great statesman Wang An-shih (1021-1086) succeeded in converting the young Emperor Shen-tsung (reigning 1068-1085) to his political philosophy that the time had arrived for carrying out a program of fundamental reforms in every sphere of the government. It was called "the New Policy" or New Deal, which involved a reorganization of the government structure, of the army, of the civil service ex-

amination system, of taxation and finances, and many economic measures of a mildly socialistic nature. The reform government lasted nearly sixteen years (1069-1085). Wang An-shih had the complete confidence of his sovereign, so he had no great need to appeal to any higher law or authority. It was even rumored that the reform leaders maintained that "the great Ancestors of the dynasty were not worthy of emulation, the Heavenly Warnings in the form of catastrophes and abnormalities were not to be feared, and public opposition was not to be heeded."

But the opposition, which was led by a remarkable group of conservative but upright statesmen, felt the necessity to appeal to a higher authority than the Government and the Monarch. So it was the opposition party that often upheld such concepts as the Way of Nature and the Law of Nature (*t'ien-lei*) as the authoritative basis of their criticism and opposition to the reforms. It was Ssu-ma Kuang (1019-1086) the historian and leader of the opposition party, who in his famous letter to Wang An-shih, quoted Lao-tze's doctrine of non-action and non-interference as the Way of Nature, and censured his friend and political enemy for having apparently disregarded what he had studied and admired. It was Cheng Hao (1032-1085), one of the great philosophers of the age, who, in his memorials to the throne, often referred to the Natural Law (*t'ien-lei*) which he conceived as immutable and not varying with the change of time.

And when China came under the exceedingly despotic rule of the Ming dynasty (1368-1644), it was once more the concepts of *lei* and *t'ien-lei* that were appealed

to by those hundreds of heroic scholars, philosophers, censors and statesmen, who in the course of two centuries and a half, fought against strong-willed Prime Ministers, wicked and powerful eunuchs, and ignorant and despotic monarchs. The Ming period was undoubtedly the most tyrannical age in Chinese history. There was the most infamous practice of publicly flogging censors and ministers of state in the Imperial Palaces. There were the Special Police Courts presided over by powerful eunuchs and armed with arbitrary powers to make arrests, hold secret trials, and use the worst kinds of torture to obtain confessions of guilt and to intimidate and punish all those who dared criticize and oppose the Government. Hundreds of prominent statesmen and philosophers (including the great philosopher Wang Shou-jen, better known as Wang Yang-ming) suffered torture, and not a few perished under its horrors. It was the absolute monarchy at its worst.

Against such despotism run amok, neither the doctrine of the Way of Heaven or Nature as Lao-tze conceived it, nor the Will of God as Mo Ti and Tung Chung-shu taught it, nor the supreme authority of the Sacred Canon of Confucian Scriptures could furnish any effective check or control.

Yet the Chinese fighters for justice and better government and for the traditional right of outspoken criticism against the government and the sovereign, fought on. The only moral and spiritual weapon which gave them courage and strength to fight on in such an apparently hopeless battle, was the concept of *lei* or *t'ien-lei* in the sense of Universal Truth or Reason or Natural Law.

But the concept of *lei* or *t'ien-lei* had undergone a

fundamental change. The preeminent and most influential school of philosophy of the age was the School of Wang Yang-ming (1472-1528) who taught that there is no *lei* (reason or law) outside the mind, and that there is in every man the "innate and intuitive knowledge" (*liang-chih*) which is the moral conscience of man and which "knows right to be right and wrong to be wrong." The Natural Law is what every man's innate and intuitive moral conscience perceived to be the truth and the law which it is his duty to "extend and apply to all things and all events."

It was this new conception of the Natural Law (*lei*) within everyman's intuitive moral conscience that gave the spiritual strength to those courageous men to fight on with a vivid conviction that, flogged they might be, banished they might be, tortured and martyred they might be,—they were fighting and suffering for a just and right cause which would ultimately be vindicated. One of the philosophers of the age, Lü K'uen (1538-1618), left a volume of his thoughts and reflections under the title of "Groaning Words," in which I find this observation on the moral and political struggle of his time: "There are only two things supreme in this world: one is *lei*, the other is political authority. Of the two, *lei* is the more supreme. When *lei* is discussed in the Imperial Court or Palace, even the Emperor cannot suppress it by his authority. And even when *lei* is temporarily suppressed, it will always triumph in the end and will prevail in the world throughout the ages."

Let these "groaning words" of an old philosopher conclude my study of the Natural Law concepts in the Chinese tradition. None of these concepts was able to achieve

the objective of checking or limiting the absolute powers of the unlimited monarchy. No concept of the Natural Law alone can ever achieve that objective, in China or in any other country on earth. But the story is worth telling. It confirms and verifies an historical thesis, namely, that the concept or concepts of Natural Law or Natural Right have always played the historical role of a fighting weapon in mankind's struggle against the injustice and the tyranny of unlimited human authority.

SUMMATION: THE UNIVERSALITY OF THE NATURAL LAW CONCEPT

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SUMMATION

I want to say just a few words in closing this session which will have nothing to do, probably, with most of the things that have been said here, and I want to say it not as a member of the Institute nor as one sitting up here at this table, but rather as a newspaper man who has observed a most unusual story.

Here we have had for some days men who are devoted to different faiths and different traditions; a Jew, a Moslem, a Confucian, a Hindu, a couple of Pragmatists, if you please, a Presbyterian and some Catholics, and an Irishman who has been "Sirred" by an English King. All of us are gathered in a Catholic University, and what we have been discussing here and arguing about and debating is a single phenomenon, which probably if we had had men of other sects, traditions and faiths, would have ended in the same way; namely, that we are trying to find some explanation, not only of our differences but of our manifest unity because in the fundamentals, and this is the big story, there is hardly a disagreement to be noted.

It is a very curious thing that this should have occurred in the year 1951 when so many minds in so many parts of the world are concerned only with the problem of food and clothing and shelter and the ways of government. Although Judge Hutcheson got in his lick for the law, our great concern really was not over the law, nor even over the way men actually live from day to day, but rather over the eternal problem as to how men would like to live, ought to live and what they believe is worthwhile

—permanently and everlastingly and universally worthwhile in life.

It is an amazing story. It is even more amazing, as I see it, that we could meet here at all. The Catholic Church does not have a good reputation with many of us. It is supposed to be bigoted and narrow and to assume that it alone possesses the whole volume of truth. And yet we have been made welcome here, we of different faiths, and in the great tradition of our country we have been unrestricted either by rules or regulations or even good manners. We have said what we believed to be true, and we have said it without restraint. That in itself is not only a proof of the vitality of our nation quite apart from what you will read in the newspapers or what is true of corruption, of dishonesty—these things don't matter. Fundamentally it is an evidence of the great vitality of our nation that this could have occurred here and that it could have occurred in a Roman Catholic University.

In the Middle Ages, for instance, it was customary, in places, for Jewish Rabbis and Catholic Priests to dispute. The object of the dispute was always to prove that the Jewish Rabbi was in error and the Catholic Priest right. But that was not a requirement here. The great, the only requirement here was sincerity of purpose and an honest, frank statement of what one believed. After that it will be printed and even when what is said is antagonistic to the fundamental principles of this faith it will appear in a volume under the imprimatur of Notre Dame, which is dedicated to her whom Catholics accept as the Mother of God.

Now, this story in itself is so dramatic and so tremendous both in a recognition of the universality of Catholicism,

and I am not a Catholic—and of the fundamental strength of our nation which fears nothing, not even the questioning of its civilization. I must say that if this Institute existed for nothing else or this University existed for nothing else, this meeting has fully justified their existence.

And I want to add just this—that when it is all over and we have heard all these speeches—the oratory, the language, the differences, the varieties of gropings—we all come to this: that there is a divine intelligence, that there is a divine law, that there is a rhythm in life that cannot be broken; that this rhythm, that that perfection of form and manner and substance and nature, if you please, comes somehow, perhaps far beyond our understanding, from the Creator who gave us not only the sun and the stars and the moon but also a law of life that is good, and that in that goodness is the greatest of hope and contentment and security for all human beings of all faiths, of all creeds, of all nations; and in that spirit—in that spirit of goodness—which can be called Natural Law, we have demonstrated even in our differences that we are all brothers under the fatherhood of God.

EPILOGUE

REVEREND THEODORE M. HESBURGH, C.S.C.,
Executive Vice-President, University of Notre Dame

EPILOGUE

During the first four years of its existence, the Natural Law Institute concerned itself with various aspects and applications of the natural law as understood by eminent jurists of the Western World, particularly America. This year's series represents a new, and we think, most fruitful approach to the natural law. The present volume reaches beyond the Western World to the great cultures of the East in an endeavor to find some common ground, and possibly, some additional support for the basic concept of the natural law.

This widening of scope is certainly fitting, for the natural law is by virtue of its definition co-extensive with man. Moreover, given the present world situation, we may have uncovered an additional basis for unity in a world where the process of human and spiritual unity has certainly not kept pace with the technological advances towards physical and geographical unity.

In seeking for a bond of unity in a world fraught with racial, religious and cultural tensions, where could one seek nearer the core of the problem than in a universally accepted concept of natural law? This law is supra-national, supra-cultural, and yet highly unifying and most fundamental, for it begins with what makes a man, any man, human, his faculty of reasoning, and ends with God, who is the Author of this law and the end of all men's seekings.

We are here reminded of the pattern set forth by Professor Jacques Maritain, at the second session of UNE-

SCO's General Conference, calling for an effort to discover practical points of convergence in the light of the fullest possible mutual understanding. Dr. Hakim relates this to our present subject:

When the different nations of the earth and the followers of different religions meet, they should not meet to convince one another about their distinctive dogmas and mysteries; if they do that, they will find no common ground. Religious faith is now eclipsed all over the world by the powerful influences of materialistic sciences. It has become difficult, almost bad form and violation of etiquette to take the name of God in an international gathering of politicians or jurists. People have begun to say that for humanity, morality is enough, and religion is nothing but morality tinged with emotion. I say, very well then, let us start with basic morality, although I have serious doubts whether morality can lead a healthy, autonomous existence without being rooted in theism. It is, nevertheless, a step towards reality that the nations of the earth, divided racially, nationally, and by narrow and fanatical interpretations of religion, meet and put their signatures to a Charter of fundamental human rights acknowledging thereby the common ethical basis of humanity. Humanity seems to be advancing toward God, though with uncertain and hesitating steps. When the present-day materialism has had its day and people begin to realize a common spiritual basis as well, they may put their signatures to belief in one God as they have consented to believe in one world and one humanity, however their actual practices may fall short of their verbal professions.

We do not mean to say here that we have come to blend

our differences, national, cultural or religious, into one amorphous and uniform whole, but rather that we must, in the face of a world torn by utterly conflicting philosophies of life regarding man and his human rights, solidify the ranks of all those who do agree, at least, upon a basic pattern for human happiness and order and peace in this world, founded on a natural law established by God.

This is obviously no easy task. We are speaking here of a meeting of East and West on a matter that is fundamental to all human existence and activity. It means much more than driving the same tractors, or flying the same airplanes, or using the same weapons. It is highly significant to find unity in this area even though different languages are spoken, different literatures read, or even different rituals followed. Unity regarding a basic concept of the natural law means unity of men as men, agreement about what it means to have fundamental rights as a human being. Recognition of the natural law erects a standard that human reason alone can recognize as being a principle of world order above the petty differences of civil codes and man-made laws.

Again, we are not saying that there is no other unity that is deeper or more significant, but we are asserting that here is a common ground where we can begin to draw all men, everywhere, together in a unity that reflects what is common to human beings as human beings. There is a force at work in the world today which does not accept this basic spiritual unity of man as a child of God, endowed with inalienable human rights. At least, we who do accept the natural law can present a united front in a world already divided in too many other ways not to be united at least in this, in which we agree, and on the

basis of which we oppose those who would dehumanize man.

The foregoing papers were not in any sense artificially contrived to meet our purposes in seeking a common ground. We hoped that such a common ground could be established, but we asked the various authors to state freely how they might find points of contact between what we understand as the natural law, and what they sincerely understood as the import of their culture in this area. Our purpose in this epilogue is merely to ask the question: Were such points of contact discovered as to give some hope of establishing a valid basis for a meeting of minds, eastern and western, as regards the basic concept of the natural law?

Our first reaction, upon studying these papers, was most optimistic. Perhaps, because of many first impressions of agreement that may be more semantic than real, we have been too sanguine. We shall merely state the agreements as we read them in the texts, and ask the indulgence of the authors if we have seen more than they intended by their words. There were so many points of apparent agreement, that even in the event that we have read a superficial denotation and missed a more important connotation in some passages, we feel confident that enough common ground has been established to open up a new and significant bridge of unity amid many world-wide islands of differences hitherto separating man from man, race from race, culture from culture. If only this bridge of spiritual and human agreement may be widened and lengthened by further and more enlightened discussion from both sides, this year's Institute will be well justified.

It would help at this juncture to outline procedure.

Our method is simple. We will merely establish what seem to be the fundamental elements in our concept of the natural law, and then attempt to find wherein the various authors express whole or partial agreement in these fundamental elements.

The natural law, as we understand it, is, as any other human law, a norm for human conduct. It differs from other human laws in three ways.

I

The natural law differs from most other human laws in that its author is not man, or civil government, but God. It has variously been called the divine unwritten law, or a part of the eternal law of God for the government of the universe, insofar as it is the eternal law in human nature. While divine in origin, it is a human law as regards its subject matter which is human rights and duties, human justice. Understood in this way, natural law is contradistinguished from "written law," human or divine, from "positive law," from "civil or municipal law," or in general, from any law of human origin. St. Thomas Aquinas defines natural law as "the rational creature's participation in the eternal law" of God. The natural law is not only the law of reason (by which it is known) but the law of nature's God. This basic conception of natural law as divine in origin antedates the Christian era, which is understandable, since its roots are philosophical rather than theological.

Aristotle in his *Rhetoric*, when faced by a conflict of written and unwritten law, advises the lawyer to "urge that the principles of equity are permanent and changeless and that the universal law does not change either, for it is

the law of nature, whereas written laws often do change." Aristotle's concept of a natural justice common to all peoples coincides with our basic notion of the natural law as distinguished from positive human law. Plato too, recognizes law as a disposition of reason which orders things according to their natures, and which neither depends upon nor derives its authority from the power of the state.

In summary then, we can establish this first major element in the natural law: it is God-made rather than man-made. Several rather obvious corollaries follow from the divine origin of the natural law. It is both the foundation and the standard for further legal determinations of positive laws. Because of its origin it is unchanging as God and human nature are unchanging. Positive law to be just should conform to the general principles for human justice contained in the natural law. In case of conflict, the natural law is the superior rule for human conduct.

We shall now attempt to see in what manner the authors of this volume agree with this first element of the natural law, its divine origin and authority.

Dr. Sundaram's statements are in clear-cut affirmation. He says that for many Hindus, "their ignorance of man-made law did not in the least detract from their fundamental knowledge of the highest law, the law of God or the eternal law or natural law—call it by whatever name. They accepted unquestioningly the authority of the Law—God given Law—because they were convinced that no power on earth can supersede the divine law."

"Origin, Existence, Extinction follow according to His (God's) will. The Supreme Being does not have to admin-

ister the Law, because He is the law. He keeps eternal vigilance and is eternally at work."

Dr. Sundaram also voices agreement on the differentiation of natural law and other human laws.

"There is one fundamental difference between natural law and other forms of law. Common law, canon law, constitutional law, international law are all subject to periodical amendments and alterations. Natural law is eternal and immutable. A second basic difference is that all other laws of the second group are created, evolved, modified and altered by man; natural law is only discovered by man. . . . Lastly, any form of law that runs contrary to natural law may seemingly succeed for a while, but it is doomed to fail ultimately."

Along the lines of this last statement, Dr. Sundaram comments later in his paper:

"In the ultimate reality, the individual soul is greater than all groups, organizations, states and communities of men. If the laws of men corrupt the soul of man besides dominate his body, man has the righteous duty to rebel against such laws and reassert the natural laws of his Maker."

And finally, Dr. Sundaram relates the problem to contemporary history in India.

"If today 40 million so-called untouchables of yesterday can talk with dignity, with their heads erect and obtain equal rights and opportunities with their fellow men in their country, it is entirely due to this one man's (Ghandi's) untiring devotion to natural law—his adherence to the dignity of the soul of man."

This seems ample evidence to see the support of Dr. Sundaram and the Hindu philosophy and tradition which

he represents, for our first and most fundamental element of the natural law.

Rabbi Freehof's paper is in its totality a testimony to law coming from God, and therefore superior to the human, man-made laws. There may be some difficulty in distinguishing here between references to written divine law as contained in the revelation of the Old Testament and the unwritten natural law which is spontaneously known to reason, although placed by God in the nature of man. We have the impression that many of Rabbi Freehof's words apply to the former. Given the ancient theocracy of Israel, this is understandable. Moreover, Thomas Aquinas has said that the content of the Decalogue is natural law. We can deduce at least, that in the spirit of the Jewish tradition, a law originating from God takes precedence over man-made law.

Almost no person needed the threat of prison or the lash, to be law-abiding; for the law was not a mere human contract or the product of the wilfulness of a tyrant or the confusion of some town council. . . . It was the will of God. . . . Laws must be tested by this yardstick. Does the law violate the conscience of the community or earn its approval? If it violates it, no police power will ever be sufficient. As long as the citizens believe that law is wilful, foolish, a decree forced upon them, then they will hate the law and resist it. But when they feel that it comports with conscience, then police power becomes almost unnecessary because the law is enforced from within. The scattered Jewish communities maintained law and order because the law was accepted as coming to them from 'nature and nature's God'.

Dr. Hu Shih finds in the long history of China sev-

eral notions similar to our concept of natural law as a supreme, fundamental law, superior to all laws of mere human authority.

In Chinese tradition, this appeal to a higher authority has taken these main forms. (1) Sometimes it takes the form of appealing to the authority of an imagined and much freely idealized antiquity—the Golden Age of ancient sage-rulers. (2) Sometimes it takes the form of appealing to the will of God (*t'ien-chih*, or *t'ien-i*) as the highest norm of law. (3) Sometimes the appeal is made to the Way (*tao*) of Heaven or nature, which is the law of nature. (4) Sometimes, especially under the long, long centuries of the vast unified empire, the appeal is made to the authority of the canon (*ching*—meaning the invariable, immutable law) of the Sacred Scriptures of Confucianism as the highest authority on all matters of moral and political justice. (5) And sometimes the appeal made to Reason or Law or Universal Reason or Natural Law (*li*, or *tao-li*, or *t'ien-li*) as it is intuitively evident in the moral conscience of man. . . . all of these bear some resemblance to the historical appeals in the Western World to natural law or natural right.

Dr. Hu Shih has amplified some of these notions to show that they coincide with our first basic concept of the natural law as divine in origin and superior to other human laws. For example, five centuries before Christ the philosopher Mo Ti purified the concept of *t'ien-tao* as taught by Lao-tze and accepted by Confucius.

Mo Ti declared that the Will of God (*T'ien-chih*) should be the criterion of all judgment of right and wrong, the standard of all measures, the highest norm

and law. He said 'Now I have the Will of God. I shall use it to measure and judge the laws, penalties, and governments of the kings, princes, and grand officers of all the states in the world: and I shall use it to measure the words and acts of all the people. Whatever is in accordance with the Will of God is right; whatever is opposed to it is wrong'."

The same point is made in reference to *Ching*, the Canon of Confucianism.

It was revered and regarded as the highest authority in all matter of morals, law, social relations and governmental policy. . . . it was required reading in all Chinese schools. . . . primarily because some of the books included in the Canon in its broader sense do contain some of the universal principles of justice which in the words of Aristotle, 'All men, by natural intuition, feel to be common right and common wrong'.

Dr. Suzuki presents a problem in attempting to find some point of contact between our concept of the natural law and his presentation of it in the Buddhist Tradition. He would seem to admit a law fundamental to all human action, but based on human nature considered in itself rather than as coming ultimately from God as its creator.

Dr. Hakim leaves no doubt about the Moslem belief in the natural law as coming from God and implanted in the very nature of man.

Nature's laws are God's thoughts thinking themselves in orbits and tides. As there are signs of God's power and wisdom and beauty in all nature outside man, so are these signs inscribed in the hearts of all men. . . .

the verses of God's revelations are inscribed in letters of light in the starry heavens, in the prophetic consciousness and in the minds and hearts of those who reflect rightly on nature within and nature without. . . . According to the Quranic teaching, religion is essentially a comprehension of the natural law and living in obedience to that law, for only thereby shall man be true to himself, and only by being true to himself shall he be true to his God and just to the rest of His creatures and His creation. . . . Division of humanity into hostile groups on the basis of color, caste or creed is unnatural because it strikes at the roots of essential human values and poisons all morality and spirituality . . . Most Muslims believe that Islam has a mission, and that mission consists in overcoming racial and national barriers, demolishing class distinctions, elimination of exploitation and advancing towards universal liberty, universal equality, universal justice. These are the constituents of the natural law and the values that entire humanity is destined to realize. In God, these universal, unchangeable principles originate and towards God they lead mankind.

So speaks Dr. Hakim.

Recognizing the limitations of language to which we referred above, and the possible mistakes in the interpretation of other men's thoughts, it still appears that in the above statements by the various authors, we do find a substantial agreement on the fundamental notions of the natural law: That it originates in God and is implanted in human nature; that it supersedes all other man-made laws, and forms both a foundation and a rule for the justice of these laws; that it is unchangeable as are nature and nature's God. Certainly, if these points alone are valid,

we have a valid basis for the recognition of fundamental human rights by millions of Eastern peoples who share our hopes for justice and equity, and the natural basis for these hopes. Here is a pattern for peace and order on a world-wide basis. Here is a unity at the heart of mankind that stands in fundamental opposition to a current divisive world philosophy that recognizes neither God, nor the dignity and inalienable rights of His noblest earthly creation.

So much for the first element in our understanding of the natural law. We shall treat more briefly the other two characteristics that differentiate natural from other man-made human laws.

II

Natural law, unlike other human laws of human origin, applies to all men of all times. The reason is rather obvious after our foregoing discussion. The natural law stems from that which is common to all mankind—their humanity as constituted by God. Men may change, but their nature does not. Many of the passages already quoted substantiate the agreement on this point. We shall merely refer to a few additional lines that have direct bearing on this aspect of the natural law: its universality in space and time.

Dr. Sundaram testifies for the Hindu tradition. "The immortality of the soul is applicable to the followers of all religions and the Law of Nature pertaining to the soul of man is of universal acceptance. Natural law, according to the Hindu is identical in all faiths and is common to all mankind."

Rabbi Freehof is no less emphatic speaking for the Jewish people.

The Divine-Natural law meant order and meant culture. To the extent that it meant order, it meant self-control through conscience. To the extent that it meant widespread culture, it achieved a democratic control over the abuses of power. These principles apply to all legal systems in all times. If men believe that the law is essentially natural and God-given, then with even a minimum of police power, order will reign. If men understand the legal foundations of their own government, they are the intelligent citizenry against which no tyranny can prevail. This is the experience and universal meaning of Natural-Divine law in Jewish history. It was small in scope, but it applies *ubique et ab omnibus*, everywhere and for everybody.

Dr. Hu Shih has also indicated the universality of the natural law in the Chinese tradition. He cites Mo Ti as using *t'ien chih*, the will of God, as the criterion of all right and wrong, using it "to measure and judge the laws, penalties, and governments of the kings, princes and grand officers of all the states in the world."

Dr. Hu Shih cites *Ching*, the Canon of Confucius, to support the universality of a concept akin to the natural law. He borrows his definition from a classical author of the fifth century (A.D.): "The times may change, dynasties may come and go, and metal and rock may decay and perish, but the Canon (*Ching*) will always remain as the unchanging rule and as the immutable law for a hundred generations to come."

Dr. Hu Shih also relates the more modern development of *t'ien lei* in the sense of universal truth or rea-

son or natural law. "The natural law (*T'ien lei*) is what every man's innate and intuitive moral conscience perceives to be the truth and the law which it is his duty to extend and apply to all things and all events."

Dr. Suzuki also relates this universality of the natural law to the Buddhist concept. "Man has a certain innate feeling, according to Buddhism, which makes him refrain from committing deeds of violence. The innate feeling is rooted in human nature equally shared by all sentient beings who live in group-life."

Dr. Hakim begins his paper by asserting that the natural law is "universal and objective, rooted in the nature of things and in the nature of humanity." He later asserts that "the essentials of ethics must be the same for all because they are inherent in the common nature of all men."

In summary, we find in each of these authors, substantial agreement on the universality of the natural law, applying to all men of all time, since all share the same human nature.

III

The final question to which we must now address ourselves is: how do men come to know this natural law which is established by God in the nature of men? If the law is applicable to all men, it should be known to them somehow, by reason of their own natural resources of knowledge. That this is the case, we find amply documented in the various authors. This is the third outstanding characteristic of the natural law as distinguished from man-made laws. These latter must be promulgated by their human legislators. Even the Divine Positive Law

is promulgated by revelation. But the natural law can be known by all men possessing human reason.

Dr. Sundaram is clear in his testimony. "There are millions of Hindus today, and there have been millions before them, whose only knowledge of law concerned natural law." ". . . All other (human) laws . . . are created, evolved, modified and altered by man: Natural law is only discovered by man." This knowledge of God's pattern is given poetical expression by the modern Indian poet, Rabindranath Tagore:

"Life of my life, I shall ever try to
keep my body pure, knowing that thy
living touch is upon all my limbs.

"I shall ever try to keep all untruths
out from my thoughts, knowing
that thou art that truth which has
kindled the light of reason in my mind.

"I shall ever try to drive all evils
away from my heart and keep my love in
flower, knowing that thou hast thy seat
in the inmost shrine of my heart.

"And it shall be my endeavor to reveal
thee in my actions, knowing it is
thy power gives me strength to act."

Rabbi Freehof enunciates much the same truth: "By natural human powers of experience and reason, tested by reverent study of Holy Writ, was a great legal system developed. It was natural, human law, the law inherent in the nature of man's mind and conscience, used as an instrument to discover the implicit will of God which is eternally present in unceasing revelation."

Dr. Hu Shih explains the relevance of the Chinese notion of *Ching* to the natural law by relating its principles of universal justice to what Aristotle declared that "all men, by a natural intuition feel to be common right and common wrong."

Dr. Hu Shih also quoted a quaint passage from Mencius, who lived about three hundred years before Christ, to demonstrate that *Tao-lei*, the law of nature, which is manifested in the nature of man, can be known naturally by our reason.

All mouths of men agree in enjoying the same relishes, all ears agree in enjoying the same (musical) sounds; all eyes agree in recognizing the same beauty. Is there nothing which all minds agree in affirming to be true? What is it then which all minds recognize to be true? It is *lei* (universal truth or law) and *i* (universal right or righteousness) . . . Universal truth and right are agreeable to our mind, just as tasty meats are pleasing to our taste.

Dr. Suzuki would seem to say, if we understand him correctly, that the mind makes the law. This is, of course, saying more than we intended by our understanding of the natural law as known by human reason.

Dr. Hakim has asserted in many ways that the natural law can be discovered by human reason. We shall cite one typical statement.

All men are endowed with Reason and Liberty. The Quran says that the best of divine gifts is wisdom, and wisdom dictates surrender which would dispel discord and lead to eternal harmony with God, with one's own nature and with the nature of things. Through wisdom and surrender man gets more and

more power which is not an end in itself but a necessary means of enrichment of intellectual, moral and spiritual life. . . . The fundamental principles (of law) are rooted in the nature of man, and men of knowledge, not misled by personal or collective egotism, can discover them.

These examples should suffice to indicate the large measure of agreement that may be found in reference to the third characteristic of the natural law: that it can be known naturally by all men endowed with human reason.

IV

We are now prepared to answer our original question: Is there a meeting of minds, eastern and western, as regards the basic notion of the natural law?

The foregoing evidence does seem to indicate a valid basis for such an agreement, within the obvious limitations of this study. Certainly much more study of the subject is needed, but we do believe that we can well be gratified in finding even this much agreement with which to begin.

One cannot read the testimony cited from the various authors without noting a marked contrast between their reverence for God's will as a foundation for law and the modern secularist attitude of so many western jurists who will not admit of God as having any conceivable part in the framing of order and justice in this world. One cannot read these authors' unanimous avowal of absolute unchanging values deriving from man's nature as created by God, without wondering how so many modern prophets of the positivistic and relativistic schools of jurisprudence could have lost touch with the same rich-

ness found in our western tradition. One ponders the thought of these men of eastern culture, clearly outlining a theme of universal justice which applies to all men of all times, and one notes how much stronger is their position than that of the pragmatists who will be hard put to find a solid foundation for the establishment of basic human rights for all men, everywhere. And lastly, when one sees these authors' faith in the power of human reason to find a pattern for justice and order in the natural law, there is another obvious contrast between the richness of their concept, and the stark poverty of the agnosticism and skepticism that attends the efforts of many of our own legal scholars, and the futility of their sociological theories that relegate law to force, rather than reason.

Given the need for world-wide unity that can be a tower of strength against the pressing totalitarian concepts of law, one might justly wonder if perhaps we of the Western Tradition have not divested ourselves of our traditional strengths. Might we who possess the actual leadership for the heritage of free men in the world today, find ourselves ill-equipped to attain the goal we seek because of the impoverishment and perversion of our basic concepts underlying freedom, and human rights, and law, and order in this world?

Borrowing Arnold Toynbee's terminology, a return to the appreciation of the natural law would be an obvious response to this challenge. And we do believe that it would provide a realistic bond of unity between east and west, a unity forged in common ideals of peace and order that can exist between all men who recognize, respect and cherish their human dignity and rights as children of God.

SPECIAL LECTURERS OF THE NATURAL LAW INSTITUTE, UNIVERSITY OF NOTRE DAME, 1947—1951

- 1947 ADLER, Mortimer J. (University of Chicago).
- 1947 DOHENY, (Rt. Rev. Msgr.) William J. (Judge, Sacred Roman Rota).
- 1947 McKINNON, Harold R. (Member, San Francisco Bar).
- 1947 MANION, Clarence E. (Dean, College of Law, University of Notre Dame).
- 1947 PALMER, Ben W. (Member, Minneapolis Bar).
- 1948 GEROULD, Gordon H. (Princeton University).
- 1948 LE BEL, Maurice. (Laval University).
- 1948 LEVY, Ernst. (University of Washington).
- 1948 ROMMEN, Heinrich A. (St. Thomas College).
- 1948 WILKIN, Robert N. (Judge, United States District Court, N. Ohio).
- 1949 CORWIN, Edward S. (Princeton University).
- 1949 KUTTNER, Stephan. (Catholic University of America).
- 1949 O'SULLIVAN, Richard. (Bencher, Middle Temple, London).
- 1949 ROMULO, Carlos. (President, United Nations General Assembly).
- 1950 BROGAN, Thomas J. (Formerly Chief Justice of New Jersey).
- 1950 FORD, John C. (S.J.) (Weston College).
- 1950 HUTCHESON, Joseph C., Jr. (Chief Judge, United States Court of Appeals, Fifth Circuit).
- 1950 MORLEY, Felix. (Formerly President, Haverford College).
- 1950 SOKOLSKY, George E. (Author and journalist).
- 1951 FREEHOF, Solomon. (Rabbi, Rodef Shalom Temple, Pittsburgh, Pa.).
- 1951 KHALIFA ABDUL HAKIM. (Director, Institute of Islamic Culture, Lahore, Pakistan).
- 1951 HU SHIH. (Formerly Chinese Ambassador to the United States).
- 1951 SUNDARAM, M.S. (Cultural Attaché, Indian Embassy, Washington).
- 1951 SUZUKI, Daisetz T. (Visiting Professor, Japanese Culture, Claremont College).